

BOARD OF ZONING APPEAL
FOR THE
CITY OF CAMBRIDGE

GENERAL HEARING

THURSDAY, MARCH 12, 2015
7:00 p.m.

in

Senior Center
806 Massachusetts Avenue
Cambridge, Massachusetts 02139

Constantine Alexander, Chair
Timothy Hughes, Vice Chair
Brendan Sullivan, Member
Douglas Myers, Associate Member
James Monteverde, Associate Member

Sean O'Grady, Zoning Specialist

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PROCEEDINGS

(7:00 p.m.)

(Sitting Members Case #BZA-006009-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers.)

CONSTANTINE ALEXANDER: The Chair will call this meeting of the Zoning Board of Appeals to order. And as is our practice, we will start with the continued cases.

The first continued case I'm going to call is case No. 006009, 30 Brattle Street.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard. The Chair would report that we are in receipt of a letter from counsel for the petitioner, James Grey Wagner. (Reading)

Please accept this letter as a formal request of the applicant to continue for a second time the hearing of this matter to your next hearing date (March 26th).

Please let me know if a waiver for deadline on the action for Variance is needed/desired here.

This is a case not heard so I'm going to move that we continue this case until seven p.m. on March 26th on the conditions that the petitioner sign a waiver of time for decision.

SEAN O'GRADY: They have.

CONSTANTINE ALEXANDER: They have already. Good. That's been satisfied.

On the condition that the sign be modified once again to reflect the new date and the new time, and that this sign be maintained for the 14 days required by

our Ordinance.

And lastly, to the extent that the petitioner is going to submit modified plans or -- that these plans must be in our files no later than five p.m. on the Monday before our Thursday hearing on March 26th.

All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Four in favor. Case continued.

(Alexander, Hughes, Sullivan, Myers.)

* * * * *

(7:00 p.m.)

(Sitting Members Case #BZA-005750-2014:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will next call case No. 005750, 6-8 Emmons
Place.

Is there anyone here wishing to be
heard on this matter?

Good evening.

ATTORNEY JAMES RAFFERTY: Good
evening, Mr. Chair. For the record, my
name is James Rafferty. I'm appearing
this evening on behalf of the applicant
Troy --

CONSTANTINE ALEXANDER: 21
Troy-something or other.

ATTORNEY JAMES RAFFERTY: 21 Troy Road Limited. Personified by the gentleman on my right, Mr. Louis Ferraro, the principal owner of the property.

As I'm sure the Board is familiar with, having reviewed the case, this is an appeal that's been filed regarding an interpretation made by Commissioner Singanayagam at the property at 6-8 Emmons Road. And it is a somewhat narrow issue to be precise. It's a nine-foot wide issue and I will do my best to focus on the issue because this -- because there's a consequence of this decision, and I think most of the interest around the decision involves what the consequence might be, but I think frankly, that's a separate discussion and not within the scope of what we're appealing. So what I

have for the Board's review is a survey or a site plan that you can see of the property. And/or what's at issue here is that area that's identified as a right of way. It's a nine-foot right of way that exists between the property's -- at the end of Emmons Place, between the property that my client owns, which is called 6-8 Emmons Place, and on the other side of the right of way is a property known as 2-4 Emmons Place.

And Emmons Place is a small way off of Roberts Road. And the way we're talking about now is something referred to as a passageway, which is even smaller than Emmons Place, but historically has existed for a very long time as a way. So what I prepared for the Board are a couple of exhibits, which I did provide a copy to

one of the abutters here so they would know what I was referring to. So the first exhibit --

CONSTANTINE ALEXANDER: I'll pass them down.

ATTORNEY JAMES RAFFERTY: Okay.

The first exhibit involves the earliest identification we have of the way was in 1886. And you can see the purpose of the way when the land was laid out, the lot that, at the rear wouldn't have any frontage, doesn't have in the frontage in that plan but for the way. So the way is what gives the rear lot access to a public way. So you go up the way and onto Emmons Place and that's in 1886. And you can see these are our markings. We say real lot separate. So it's a separate lot.

CONSTANTINE ALEXANDER: Yes.

ATTORNEY JAMES RAFFERTY: What's relevant here is that the way is not -- the fee ownership in the way is not contained in the any of the lots it abuts, which is typically the case with ways of this nature. What you'll see occurs about a half dozen years later in 1894 the rear lot is then actually subdivided further, and half of the rear lot goes to -- half of the rear lot goes to 2-4 and the other half of the rear lot goes to 6-8. But, again, they remain as separate lots. So, again, so the way is present.

And I made a copy of Mr. Ferraro's deed because it contains language that I know the Board would recognize and be familiar with concerning the way itself. You'll see in his deed here, and this language is mirrored in the deed of the

condominium on the other side of the way. The deeds, as they always do contain, meets and bounds, legal descriptions of the two parcels. In this case it's the front parcel and the back parcel. And what I've highlighted in yellow is the reference that carries through the chain of title through the passageway. And you'll see that the way, that there is a right of way for all purposes for said passageway, but --

CONSTANTINE ALEXANDER: This only runs to the person, to whom the property was deeded and it's not, it's not dedicated to the public. It just simply says that the granting --

ATTORNEY JAMES RAFFERTY: That's true. And that is the case with all ways, with all proper ways. I have yet to see a

designation of a private way that makes reference to the public.

CONSTANTINE ALEXANDER: Sure.

ATTORNEY JAMES RAFFERTY: But the key language in there is a right of way for all purposes. And that is, that is the controlling language and rights of way. That's for all purposes. So, that would be similar to the language in the right of way for Emmons Place itself or anyone else -- and I know cases come before the Board with some frequency involving properties that are, that about a private way, and who gets to access the private way, and sometimes there's a dispute over who gets to park where on a private way, but these are rights of access.

So, and then finally the last

reference, and this will complete my exhibits, shows the condominium site plan prepared as recently as 2008 on the other side of the way by the declarant of the 2-4 Emmons Place condominium and once again you see the passageway.

So what the issue became in this case, as Mr. Ferraro explored development opportunities on the balance of the lot, was to create an additional dwelling unit structure at the rear. And after review and analysis by the Building Department, the conclusion was that -- not that the lot couldn't support either another structure or another dwelling unit, but that what the lot contained was a non-conforming driveway. And the Zoning Officer, the Commissioner is saying that the passageway must meet the minimum width

requirements for a driveway set forth in Article 6.

Now our position is that this is not a driveway. A driveway is a different animal than a way. This is a way which we abut, which we have a right of access to, and it's an improper requirement to conclude that that is a driveway for which the minimum width requirement should apply. So the question quickly became in our conversations, well, what is it? Well, it is a way. And how is a way defined?

Well, the way appears within the definition of the word street --

CONSTANTINE ALEXANDER: Article 2.

ATTORNEY JAMES RAFFERTY: -- in Article 2. And we said this is -- it is not a driveway. It is a way. It was

defined in its earliest days as a passageway. But it was created at the time when the automobile didn't exist. At one point in our many conversations about this, there was some commentary well, it doesn't make any reference to motor vehicles. That's not particularly dispositive because when the way was created, automobiles didn't exist. It was purely a way to provide access to a rear lot. The rear lot simply gets sold. So it is a way. We do not own the fee. The abutter across the way does not own the fee. A driveway is contained on the property in which the parking is being serviced or there's a common driver share. We've all seen examples of that. This is a way. And as such, holding this way to a driveway dimensional requirement is

improper.

We've provided some case law suggesting why that is incorrect.

The response focussed more on the definition, frankly, of what a street is, and we were given examples of what a street is, and none of which we disagree with, but it really doesn't go to the crux of the case here, which is well, you can't just call it a driveway because it doesn't have all the vestiges of a street. It's certainly narrow, it's certainly small, but it is a way. It is a private way. And as we define private ways, they are under common law and basically they are private ways, ways that contain rights of access enjoyed by the abutting property owners. And that's what we have here. We do not include the way in the lot area for

either of the lots. The way doesn't affect our GFA. So as such it is not a driveway, it is a way, and a way is a street by definition in Article 2, and thus the requirement that this way be contained to match the ten-foot minimum dimension is an erroneous conclusion by the Building Commissioner. And that is essentially the basis for the appeal. More than essentially, that's the whole appeal.

CONSTANTINE ALEXANDER: That's the whole case.

I mean my initial reaction, I mean, I read obviously the file, and I think you do make a good case and a persuasive case that private ways are recognized in Massachusetts, and -- but the question before us is not whether this is a private

way. Is this a private way that fits within the definition of the street? This is a Zoning question. It's not a question of conveyance question. And I look at the definition as you have, of course, of a street and it says: The right of way -- I'm going to not read every word, the relevant words. (Reading) The right of way or a private way. But it goes on. It doesn't say a private way stops. (Reading) Open to public use, used or intended for use by automobile traffic.

And then it goes on which owners are abutting land have right of access.

To me, when I look at a Zoning Ordinance, and I have to, have a provision I have to interpret, I go back to the purpose of the Ordinance. Why do we have Zoning? What are the purposes to be

satisfied by a Zoning Ordinance? And I can interpret this definition in the context of the purposes of our Ordinance. And our Ordinance has a couple -- in one section 1.30 enumerates a number of purposes, but two of them that resonated with me, and are very relevant to this case, is one of the purposes is to -- and it goes back to your point earlier, which is partially true, that, let's see. The purpose is that one is that over congestion of land.

Another is that to promote safety. I want to get the exact words. Purposes -- among the purposes are to prevent overcrowding of land.

Another purpose, to secure safety from fire, flood, panic, or other danger.

So I look at those purposes and then

I go back and I look at whether this -- how do I interpret the definition of street in the context of these purposes? And I get -- and I'm very troubled. For one thing, it's not used -- this is going to be used only -- though, it may be technically open to the public, it's only going to be used like a driveway. It's only going to be used to allow access from Emmons Place to this rear property, if a structure is to be built on there, and I gather it's -- it's proposed to be built. So I don't see this as, to me, and I want to be -- you can try to persuade me otherwise, it's not going to be used by the public for automobile traffic. It's going to be used to go in and out of a rear lot.

And, furthermore, the issue of the width of the street, there's ample evidence in our file, and Mr. Singanayagam also cites in his opinion, is that fire engines and other fire equipment will not be able to drive down this nine-foot wide passageway. So for us to determine this is a street that would allow, the end result being a structure being built in the rear lot, but there is no way for fire engines to get back there, strikes me as inconsistent with the purpose of our Ordinance. I don't want to create, let our Zoning Laws create the erection of a structure by this, what I consider a strained definition of a private way, and create a potential safety hazard for the community. And the hazard will extend beyond, given the narrow or the congested

area, if there is a fire back there, it's going to spread to all the other structures. Particularly if no fire engines can get back there. I find a lot of problems with finding this is a private way that constitutes a street within the meaning of our definition. That's my problem. I think that's what Mr. Singanayagam said in his letter. That's my issue.

Anyway, other members feel free to chime in or Mr. --

DOUGLAS MYERS: I think it's appropriate, it fits in with your question is what -- in your opinion, Mr. Rafferty, what is it, I mean, addressing the specific language of Article 2 and the -- and specifically as it's quoted in Mr. Singanayagam's letter, what is it that

takes this passageway out of the Ordinance's definition of a street?

ATTORNEY JAMES RAFFERTY: Well --

DOUGLAS MYERS: If you could, with reference to the language of the Ordinance and with reference to what Mr. Alexander has just said.

ATTORNEY JAMES RAFFERTY: This passageway is a right of way of a private way open to public use, intended for use by automobile traffic. It is, it is a -- it is a way in the same way that Emmons Place is a way. Emmons Place is a private way that allows the property owners on Emmons Place, and they alone, to drive their vehicles onto Emmons Place in order to access Roberts Road. They are legally undistinguished. They are private ways. They are not controlled by the

city. I cannot go there and park there without being subject to being towed by the owners. The city does not maintain these. Emmons Place is a more generous way than many other private ways that come before the Board and exist within the city. But Emmons Place has the same characteristics that this has -- the difference being that this is narrower, admittedly. But the width of the way is not dispositive as to the question as to what it is, because what we're being told is it's a driveway. And, therefore, it must meet a driveway dimension. But it's not a driveway. It's a way. It's a narrow way. It's a private way. Only the people that abut it may use it. They have rights of access to it. It provides access to another way, which then provides

access to the public street. I admit that the language, I've often struggled with this concept in the private way definition, about the public because you do, you do look at that language, and this comes up frequently when, in these -- I apologize if I'm going on --

DOUGLAS MYERS: No, no.

ATTORNEY JAMES RAFFERTY: I've had property owners come to me and say, you know, we're -- you know, it was a case before the Board, well spent more time at the Marsh District Conservation District, but there was a house at the end of the street and a woman had always parked in the front of that house and then someone built the house and put an addition on the house and they said, well, I always park there. And how does this work out? And

if you go to the Traffic Department and if you go to DPW, what you learn is at the end of the day these things tend to get negotiated. And I think, I don't know, others would know this better than I, but the owners tend to get together and designate one side of the way is the place we park on and the other stays open. Because otherwise as you proceed down the way, you lose the functionality of the way. You can't get to your property.

Now, there aren't legal agreements to that effect typically, and there's not language in the deeds or the easements that specifically address that.

It wasn't too long ago that Councillor Kelley proposed a Zoning Amendment, one he himself authored as opposed one he suggested others write.

But in that Amendment, it was an interesting issue, he suggested that he lives on a private way, and an issue had come about parking space on private way, and his proposed amendment was that the owners of properties on a private way be able to satisfy their parking space requirement on the private way because they had the right to access and use the way. And people commonly think well, when it's a private way, I own half of the road in front of my house. And theoretically they do, but it's subject to an easement by others. We all know the drill.

So, I'm not suggesting it's completely clear. I'm not suggesting that the Commissioner was derelict in his interpretation. I know he sought higher legal authority than himself on this. I

just think that we feel that the conclusion he has reached may be result-oriented, and I understand the implication of this and the concern about other issues around density and neighborhood tranquillity, but we believe that it is, it is improper to hold this way to a dimensional standard applicable to driveways and that's the basis for the appeal.

DOUGLAS MYERS: In what way is the passageway now open to public use?

ATTORNEY JAMES RAFFERTY: Well, now there isn't much call for it because there's not much activity because both lots are owned by the same thing. But the way the term public is defined in these ways if a structure were built in the rear and that person -- and you were

campaigning for public office, you would have it within your right to go down that way and knock on the door of that house, because you as a member of the public could access the way to the extent that anyone could access that way.

Could you drive your car down Emmons Place? Legally you don't have the authority to do that.

Could you drive your car down this way? Same restriction applies.

But could you walk down Emmons Place if you wanted to visit someone at the end of Emmons Place? If you wanted to take a walk and observe what Emmons Place feels or looks like, like lots of public ways, you could walk down there. The public is not prohibited from doing so. The same characteristic would be present for this

way.

I think, I mean, I appreciate the time. I know there are a lot of people here to speak. I think there's probably a disagreement over interpretation, and I don't want to spend a lot of time, you know, your time. But I think that is our position. I understand the complexity of it, and I appreciate the thinking that the implication of the decision is a factor in the finding. We don't agree with that, but I think, I know I understand that.

CONSTANTINE ALEXANDER: Thank you.

Anybody else want to comment or I could open it to public testimony?

BRENDAN SULLIVAN: Well, no, it's just that I've read your position three times actually, and I've read the Commissioner's position twice, and the

third time was going back to yours and see if I can get my hands around it, my head around it, and I just can't get into the affirmative that it is a street. And I, I just -- so I just cannot, I think, support your thesis on it, that's all.

CONSTANTINE ALEXANDER: I'm going to open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

Sir, under our rules, come up, you have to give your name and address to the stenographer.

BILL ZAMPARELLI: My name Bill Zamparelli resident at 7 Emmons Place in Cambridge and abutter.

Good evening. We welcome the opportunity to come tonight and to express our concerns about this proposed

development. Mr. Ferraro had purchased this property some year and a half ago I believe it is now, and he came forward initially to build two expanded condominiums I guess. It would probably be on the existing building. He was going to expand that building by 25 percent. He apparently decided that he preferred it to build as of right with what he had and then he announced that he was going to add an additional building in the rear with three bedrooms with the ability to expand it to probably five or six bedrooms. So we're looking at probably ten bedrooms added to a very small street. There are only four structures on the street.

There's 2 and 4, 1 and 2. I guess it's 2 and 4, 6 and 8, 5 and 7, and 1 and 3 Emmons Place. And there's probably about

30 or 40 people that live on the street. It's a very tight right of way -- I mean, a private way. It's probably, you know, 20 feet wide and, you know, there is parking on the street, but it is restricted by fire lanes. And so we have, you know, kind of defined the parking on the street based on the available parking that's not restricted by fire lanes, and the fire chief had come down and actually viewed the entire location and had decided, you know, what was safe and what wasn't. That was probably one of our primary concerns, you know, what are we doing here? Are we really trying to create 10 or 12 bedrooms for rental for whatever purpose? Everybody's quite concerned about that. This property would have three parking spaces. I don't know

where they plan to park the other seven people's cars or whatever that were going to be living there.

CONSTANTINE ALEXANDER: Excuse me, I don't mean to -- I want to interrupt you for a second because I think we're going to have this theme over and over again.

BILL ZAMPARELLI: Sure.

CONSTANTINE ALEXANDER: The proposed development of the rear lot is clearly the elephant in the room.

BILL ZAMPARELLI: Yes.

CONSTANTINE ALEXANDER: I mean that's -- everybody's nervous about. But it is not -- I think Mr. Rafferty correctly pointed out, it is not directly germane to the issue before us.

BILL ZAMPARELLI: Okay.

CONSTANTINE ALEXANDER: It does

have a bearing, at least in my view, because we know it's going to -- something is going to happen back there and get into the issues of what that something, how it impacts on the definition of a private way, the definition of a street. But whether it's ten bedrooms or three bedrooms back there, it's not relevant.

BILL ZAMPARELLI: Understood. Let me speak to the passageway then.

CONSTANTINE ALEXANDER: Yes, please.

BILL ZAMPARELLI: I think it is noteworthy that the definition of the street in Cambridge doesn't mention a passageway. It mentions pathways and it mentions roads and lanes and things like this, but nowhere does it mention a passageway. And that passageway was

created in the 1800s, 1850s or 60s whatever it was. It was probably more like for cattle to bring in the rear to graze them or something like that. It probably wasn't for vehicles. And so for them to be claiming that this is now a roadway that's designed to provide that access. I've heard this defined as a nine-foot wide right of way. Now that may be the case in terms of the actual pavement, but the access to the back of that space is less than nine feet. It's probably somewhere between eight and a half and nine feet wide because of the structures that are built right to the edge of that property. So we had an experience where they came down to remove a tree there. And the Cambridge landscapers came and they said we're gonna

go take these trucks in the back and we're gonna remove these trees. And I said, there's no way you're getting that truck down in the back of there. Well, he tried for four hours to negotiate this truck down there. He finally gave up. He came out. They brought all their trucks down there. They had the chipper out in the middle of Emmons Place. And this was like a three-day process for them to remove the tree in the rear. And the reason why is because they can't get access to this. How are they going to ever build anything back there? I can't imagine it. I mean I don't know how they think that's going to happen. Are they planning to take the front house down, build the back house? And I guess that's some of the concerns that we have.

The fact that this is being seen as a road, I think is a far stretch. And I absolutely believe that, you know, that the impact on the neighborhood will be, you know, very severe. You know, to think about what this will do to the cohesiveness and the nature of the Emmons Place is of great concern to us.

CONSTANTINE ALEXANDER: Thank you. Thank you for taking the time to come down.

BILL ZAMPARELLI: Thank you. I appreciate the opportunity to speak to this.

BRENDAN SULLIVAN: I think you're correct in trying to limit the discussion.

CONSTANTINE ALEXANDER: Yes.

DAPHNE HOLT: Hi, I'll be brief. My name is Daphne Holt, H-o-l-t. And I

live in 2-4 Emmons Place, the property that is adjacent to the property in question and I'm representing the entire condo. So the 2-4 Emmons Place is comprised of three units, and I'm an owner of one of the units. But we're unanimous in our support of the original decision and oppose the appeal. And so just to focus on the narrow question at hand, you know, the passageway is used solely as our driveway. There are four parking spaces in the back of 2-4 Emmons Place -- or five parking spaces that are all used by our condo, and that's the only thing that, you know, our cars are the only car that go through the passageway. We maintain the passageway. We, you know, we pay for the snow removal and we -- you can't get a car, you know, you can only get like

medium-sized cars through that passageway. It's very narrow. You can't get a snowplow through the passageway, you know, much less like an emergency vehicle. So we very much agree with people who have said that we, you know, that this isn't safe to consider this a street and that, you know, the consequence of calling it a street in that, you know, I realize it's not the question at hand, but to say that there's enough access for another building back there, you know, isn't -- it's not safe to consider it, you know, reasonable access. And as for, you know, public use, there's no public use of this passageway. It's only used by us. I think if we saw people who we didn't know there, we would consider them trespassers. You know, which is very different from Emmons Place.

Emmons Place people come and go. You know, different, you know, service vehicles, all kinds of -- you know, it's much more like a street, you know. I mean, it is a street. And Cambridge city maintains it. Cambridge city plows it. You know, they pave it if there's a pot hole, things like that. Well, we do all of that for the passageway.

And, so lastly, let me just show you, I mean I don't know if you've seen a picture of it.

CONSTANTINE ALEXANDER: We keep a written transcript. Okay, you can show that to us.

DAPHNE HOLT: This is it. And then this is a car that parks in the back. So you can see it's -- and it's nine feet wide technically, but there's this pipe, I

don't know if you can see it.

CONSTANTINE ALEXANDER: I saw reference to that in correspondence.

DAPHNE HOLT: Yeah. So there's this pipe that's actually three or four inches into the passageway. So it's actually like more eight and a half feet wide. And as I said, many cars can't get through it, you know, so....

ATTORNEY JAMES RAFFERTY: Excuse me, who's property is the pipe on?

DAPHNE HOLT: It's on ours. This is 2-4 Emmons Place.

ATTORNEY JAMES RAFFERTY: In the passageway is it?

DAPHNE HOLT: Yep. So, yeah, that's all I have to say.

Thank you.

CONSTANTINE ALEXANDER: Thank you

very much for taking the time to come down.

Anyone else wishes to be heard?

Sir.

MALCOLM PITMAN: Hi, my name is Malcolm Pitman. I live at 27 Roberts Road. I just wanted to make sure for my unit, 27 Roberts Road, and our next-door neighbor, 29 Roberts Road, we submitted a letter in opposition. I wanted to make sure that's in the record.

CONSTANTINE ALEXANDER: I don't recall seeing one from anyone on Roberts Road. I'll go through them anyway.

MALCOLM PITMAN: Okay. I just wanted to make sure it was in the record.

CONSTANTINE ALEXANDER: Hold on, we have a letter from Joyce Bowden at 112 Trowbridge Street.

We have a letter from the Malcolm Pitman.

MALCOLM PITMAN: That's it.

DAPHNE HOLT: Do you have the letter from our association?

CONSTANTINE ALEXANDER: Yes, I saw that.

I'll read that letter into the record.

Anyone else wishes to be heard?

JOYCE BOWDEN: I'll speak. It's Joyce Bowden, B-o-w-d-e-n. And I, you know, I do want to stick to the Zoning purposes here and address the two issues, you said, the prevention of overcrowding and the public safety. Okay?

The building behind that they're proposing, they managed to evade the approval process of the Historical

Commission. And to the public safety issue, part of the reason why in-fill is discouraged is because if there is a fire or a public safety issue, you can endanger not only a house on either side, as would happen if it was on an actual street, but it would also endanger the house on all of the four sides. In this case it would be actually six houses that could be in danger. And you may say to yourself, well, this is highly unlikely to happen, but it happened just last summer on Allston Street where a fire -- a house caught fire and set fire to houses on either side, and that fire went to nine alarms. It took departments from eight or nine surrounding cities to put it out and that was on a large street. If there's no access for apparatus, then they're

directly endangering the houses on every side of that lot. So that is the public safety issue.

Attorney Rafferty did actually say inaccurately that it was a place in the same way that Emmons Place is a place. But that's inaccurate. Emmons Place is much wider than nine feet and does allow for the passage of emergency vehicles. So that is not the same characteristics.

That's it.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down.

JOYCE BOWDEN: Okay, thank you.

CONSTANTINE ALEXANDER: Anyone else wishing to be heard? Sir. Two sirs.

RICHARD BLACK: My name is Richard Black, B-l-a-c-k and I'm representing William Johnson. He lives on the third

floor of 112 Trowbridge Street.

Mr. Johnson is an 88-year-old retired senior citizen who lives on the third floor of 112 Trowbridge Street, and he asked me if I would come here tonight to say a few words for him.

CONSTANTINE ALEXANDER: Sure.

RICHARD BLACK: He wants the commission to know that the -- he wants the Commissioner's ruling upheld. He believes in the whole process of Zoning. He has a, shall we say, lots of life experience, and he wants that to be upheld. Also, he is a huge public safety person, and he believes that this is a huge public safety issue. And for those reasons he wants you to uphold what the Commissioner has said.

CONSTANTINE ALEXANDER: Thank you.

RICHARD BLACK: Thank you.

RYAN ENOS: I'm Ryan Enos, E-n-o-s. I live at 114 Trowbridge Street, and I'm representing the Trowbridge Street Condo Association. We have three units there. We did not get a chance to write a letter, so we just wanted to come and say that we strongly oppose the designation of this as a street and a building back there for the public safety reasons that my neighbors have cited. We also live -- we abut this property, and we can look directly into that everyday. And fine idea, that could be a street that is open to public traffic preposterous. We've never seen anybody drive down there except the neighbors who park behind there.

Thank you.

CONSTANTINE ALEXANDER: Thank you.

Anyone else? One more, I didn't see you.

MATTHEW STEPHAN: Matthew Stephan, S-t-e-p-h-a-n, 112 Trowbridge Street, No. 2. Just wanted to go on record and voice my concern for the public safety issues that were mentioned earlier and inability for fire apparatus to get down that street and adequately protect the area from fire damages is of grave concern for me and my family. So that's it.

CONSTANTINE ALEXANDER: Thank you.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be no one else.

The Chair would note that we are in receipt of a number of letters. Some of them are from persons who have already

spoken so I won't read those into the record.

We have a letter from Joyce Bowden, and you've spoken so I'm not going to read your letter. You've given us your views.

We have a letter from Malcolm Pitman. You asked, you wanted to make sure we did get the letter. It's actually signed by Malcolm Pitman, Ellen Mayor, owners 27 Roberts Road, and Peter Loftus, L-o-f-t-u-s and Leslie Ronetta, owners of 29 Roberts Road. Let me read that into the file -- into the record.

It's addressed to our Board.

(Reading) We write in opposition to the appeal filed by 21 Troy Road Limited Partnership on December 3, 2014, and in support of the determination by Commissioner Singanayagam dated November

4, 2014. Our property abuts 2-4 Emmons Place which abuts 6-8 Emmons Place, the property which is served by the nine-foot passageway which the partnership serves as a street. It is clear from even a cursory viewing of this passageway -- it is clear from even a cursory viewing that this passageway is a driveway and not a street or public or a public or private way open to public use. The only traffic on the passageway is cars driving or people walking from Emmons Place to the small parking area at the rear of 2-4 Emmons Place. There are no sidewalks and no room for sidewalks and there is no use for the general public or even neighbors. Walking on the passageway gives one the feeling of being on or even trespassing on a privately owned driveway, not any kind of

public area. Further the passageway is not wide enough for emergency vehicles. We would have serious concerns about a fire in the a building on the rear parcel of 6-8 Emmons Place which could spread to other buildings because fire trucks could not reach the building. We urge you to deny the appeal and uphold the determination of the Commissioner.

We have a letter from Daphne Holt and -- among others.

Do you want me to read your letter or have your comments sufficiently summarized the letter?

DAPHNE HOLT: You don't have to read it but it's from the whole.

CONSTANTINE ALEXANDER: Yes, I see the other signatories of the letter are Yaoda, Y-a-o-d-a Xu, X-u and Sohab Sohrab.

Pardon my bad pronunciation. S-o-h-r-a-b.
Ismail-Beigi, I-s-m-a-i-l-B-e-i-g-i. And
from Crayton and Harriet Walker.

We have a letter from
the -- Mr. Zamparelli and his wife.
Again, you've given us your comments.
There's no need to read the letter; is
that right?

BILL ZAMPARELLI: I'm okay with
that.

CONSTANTINE ALEXANDER: We have a
letter from Daphne Holt. This is the same
letter. I got two copies in the file.
Okay.

And a letter from Karen Bromberg,
B-r-o-m-b-e-r-g. I don't believe
Ms. Bromberg has spoken tonight so I'm
going to read the letter into the file.
It's the last letter, by the way, in our

file. (Reading) I am writing this letter in support of the determination of Commissioner Singanayagam of the passageway that runs between 2-4 Emmons Place and 6-Emmons Place does not meet the definition of a street and, therefore, the developer should not be allowed to build a new structure in the open space behind the existing structures. I am an abutter to this property, but I am travelling and unable to attend the meeting to express my support in person. See if she has an address.

Continuing. I attended the Mid-Cambridge Conservation District Commission meeting about the proposed development in November 2013 -- it goes on to say why the proposal was rejected. As I commented earlier, that's not

technically the real issue before us tonight. I'm not going to take the time to read that. And she goes on to say, again, all of it with regard to developing the property and doesn't necessarily address the specific issue before us. So I will just register that this letter is in opposition, but I'm not going to read the rest of it into the file.

And that's all she wrote.

So, Mr. Rafferty, closing comments?

ATTORNEY JAMES RAFFERTY: Thank you. Nothing beyond noting that ask the record reflect that the arguments set forth and the correspondence sent to the Commissioner on May 28th that was submitted with the application be made a part of the record. It contains the legal rationale.

CONSTANTINE ALEXANDER: All right.
I don't think I have this in the files.

ATTORNEY JAMES RAFFERTY: It was
attached to the appeal.

CONSTANTINE ALEXANDER: I have it.

ATTORNEY JAMES RAFFERTY: I just
wanted to make sure that's acknowledged.
And at this point we would merely rely
upon the exhibits submitted and the oral
argument submitted today, and thank you
for your time.

CONSTANTINE ALEXANDER: Thank you.

Okay, public testimony has been
closed. We can have discussion. Some of
you have expressed views already.
Anything further or go to a vote. What's
the sentiment of the Board?

TIMOTHY HUGHES: Go for a vote. I
don't, you know --

CONSTANTINE ALEXANDER: Okay.

TIMOTHY HUGHES: I can see the argument for the idea. If nobody ever drove down this thing and parked behind this building, then I couldn't see an argument for this being a street. But one of the main definitions in the street is it tend to be used by automobile traffic. And I see that's what it's being used for. That -- having said that, you know, I think this is the idea that this was intended as a street in any way other than as a driveway, doesn't make any sense to me.

CONSTANTINE ALEXANDER: Thank you.

Okay, I will frame a --

DOUGLAS MYERS: May I comment also?

CONSTANTINE ALEXANDER: Yes, of

course.

DOUGLAS MYERS: It seems to me that this Board should be very cautious about taking a property such as this, as such as this passageway and classifying it as a street. It's -- the Ordinance does contain a requirement before it's a street that it has to be -- as a private way, it has to be open to public use. And I'm not satisfied on anything that's here tonight or anything that I've seen in the record or the deeds or the cases that have been referred to the Board that now, that now this passageway is open to public use. And the fact that it might be open to public use in the future, begs the question with respect to the case that's before us here tonight. So I am troubled by the public use requirement before a

passageway can be considered a street. And I do feel this Board should be very cautious about taking nine-foot wide passageways and converting them or giving them the status of a street.

I also noticed that in the cases which both the Commissioner and Mr. Rafferty cited, especially the Teehan case if I'm pronouncing it right, the Massachusetts court was very, very cautious about referring to a business street, 25 mile -- 25 -- 20 feet wide between two public streets generally used by the public. And all they said about that passageway was that it tends to indicate that it's being used in much the manner of a street. Well, that's a very cautious phrasing of the issue on facts that are much more extreme and developed

than the nine-foot passage -- nine-foot wide passageway. And I think this Board ought to exercise a similar caution before it calls that passageway a street.

CONSTANTINE ALEXANDER: Thank you.

Okay, I'm going to make a motion. Since this is an appeal to reverse the decision, I will make the motion on the basis that we grant the appeal being made.

So the Chair moves that this Board find that the passageway, subject to this petition, is a private way that meets the definition of a street as set forth in Article 2 of the Zoning Ordinance. And, therefore, the decision of the Commissioner Mr. Singanayagam is incorrect and should be reversed.

All those in favor of granting that motion, please say "Aye."

(No Response.)

CONSTANTINE ALEXANDER: All those opposed?

(Show of hands.)

CONSTANTINE ALEXANDER: Five opposed.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

CONSTANTINE ALEXANDER: And I think since we have a denial, we should put into the record why, and I make a further motion, subject to comments from the rest of my Board members, that the -- to find that the passageway in question is a private way that meets the definition of a street under our Ordinance would be inconsistent with the purposes and goals of our Zoning Ordinance. And, therefore, that the Commissioner's

determination is a correct determination.

All those in favor of this motion,
did anybody want to amend it?

DOUGLAS MYERS: As stated grounds.

CONSTANTINE ALEXANDER: As stated
grounds.

ATTORNEY JAMES RAFFERTY: That's a
finding as it were.

CONSTANTINE ALEXANDER: Five in
favor. Thank you very much.

(Alexander, Hughes, Sullivan,
Myers, Monteverde.)

ATTORNEY JAMES RAFFERTY: Thank
you. Appreciate your time.

* * * * *

(7:50 p.m.)

(Sitting Members Case #BZA-006068-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006068, 8 Acacia

Street.

Is there anyone here wishing to be heard on this matter? As you heard, give your name and address to the stenographer.

MEERA SINGH: Meera Singh, 8
Acacia Street.

CHRIS BURRELL: Chris Burrell,
B-u-r-r-e-l-l, 35 Williams Road Concord,
Mass.

CONSTANTINE ALEXANDER: Floor is
yours.

MEERA SINGH: So we had put in a request we'd like to enclose like the four-by-eight area to extend our kitchen and living area, and that's basically, that's what it is for the first and the second floor.

CONSTANTINE ALEXANDER: Okay.
And the reason you're here is

because you have Zoning issues, your FAR, floor area ratio --

MEERA SINGH: Yes.

CONSTANTINE ALEXANDER: -- which now already is in excess of what our Ordinance permits.

MEERA SINGH: Right.

CONSTANTINE ALEXANDER: You want to further do it by a smaller amount.

MEERA SINGH: Yes, exactly.

CONSTANTINE ALEXANDER: You're going to go from 0.87 to 0.9 in a 0.5 district. That's almost 50 percent, a hundred percent more. And that you also have some rear yard setback issues with regard to this because you're going to be massing in the -- you're already non-conforming in the rear yard and you're going to increase the non-conformance for

the massing. That's why you -- yes.

MEERA SINGH: Yes.

CONSTANTINE ALEXANDER: That's why, I just want to it get on the record that's why you're here.

MEERA SINGH: Okay.

CONSTANTINE ALEXANDER: Okay?

And the reason you need the living space within the structure, particularly the kitchen area, and the bathroom situation on the second floor --

MEERA SINGH: Yes.

CONSTANTINE ALEXANDER: -- is not conducive to --

MEERA SINGH: To our needs. Yeah.

CONSTANTINE ALEXANDER: -- you needs, and the needs of any, not just your needs but anybody who would be occupying that structure.

MEERA SINGH: Right, right.

CONSTANTINE ALEXANDER: Would need to update and modernize this area of the structure.

MEERA SINGH: Exactly yes, yes.

CONSTANTINE ALEXANDER: Okay?

MEERA SINGH: Okay.

CONSTANTINE ALEXANDER: You want to add anything?

CHRIS BURRELL: I'm just sitting in for the architect who couldn't make it to help answer any technical questions.

CONSTANTINE ALEXANDER: I don't think this is an issue in this case, but when we do -- if we grant approval, we do it subject to the plans that were submitted. And I have the pages here, the new plans. The first ones weren't adequate.

MEERA SINGH: Right, right.

CONSTANTINE ALEXANDER: These have got to be the final plans. In other words, if we want to approve it, they want to change -- the architect wants to change the plans, you have to come back before us.

MEERA SINGH: Sure.

CHRIS BURRELL: It's exactly as drawn.

CONSTANTINE ALEXANDER: This is exactly as drawn?

CHRIS BURRELL: Right.

CONSTANTINE ALEXANDER: Pretty simple set of plans.

CHRIS BURRELL: Yes, pretty straightforward.

MEERA SINGH: Yes.

CONSTANTINE ALEXANDER: Questions

from members of the Board at this point?

JAMES MONTEVERDE: What's the approximate floor area?

CHRIS BURRELL: Four-by-eight.

JAMES MONTEVERDE: No. How does the 32-square foot relate to the area?

CONSTANTINE ALEXANDER: I'll answer that for you. It's in the dimensional form.

The building right now is -- gross floor area is 2168, and they'll add 20 feet to that. They'll go to 2232.

JAMES MONTEVERDE: There's no way within that ground floor plan or second floor plan to accomplish what you need to do without the extension on the addition?

CHRIS BURRELL: The house is pretty long and skinny now and that's pretty much the best way to make this new

plan work out in the kitchen area.

CONSTANTINE ALEXANDER: I'll open the matter up to public testimony.

Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes that no one wishes to be heard.

The Chair believes that there's no letters in the file at all one way or another.

This is your letter in support. No, there are no letters in support.

Any final comments?

MEERA SINGH: No.

CONSTANTINE ALEXANDER: I'll close public testimony.

Discussion or a vote? Ready for a vote?

TIMOTHY HUGHES: Ready for a vote.

CONSTANTINE ALEXANDER: The Chair moves that we make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance will involve a substantial hardship to the petitioner. Such hardship being that the interior configuration of the premises is not conducive to family living and requires some modification.

That the hardship is owing to the nature of the lot which makes this already a non-conforming structure. And the shape of the structure itself.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of

the Ordinance.

In this regard the finding assumes that, or notes that the proposed relief is very modest in nature, has no neighborhood opposition to it, and is consistent with our goal, the goal of our Zoning Ordinance to improve the housing stock of the city.

So on the basis of all of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with three pages of plans each of which has been initialled by the Chair. There are four. Four pages. Each of which have been initialled by the Chair.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

(Alexander, Hughes, Sullivan,
Myers, Monteverde.)

* * * * *

(8:00 p.m.)

(Sitting Members Case #BZA-00609-2015:
Timothy Hughes, Brendan Sullivan, Douglas
Myers, James Monteverde.)

CONSTANTINE ALEXANDER: The Chair
is going to call case No. 006099, 11
Hurley Street.

Is there anyone here wishing to be
heard on this matter?

We called the case.

DAN WINNY: I'd like to put this
easel wherever one can see it. Is this a
suitable spot?

CONSTANTINE ALEXANDER: Make sure
everybody in the audience can see it, too.
That's fine.

DAN WINNY: Good evening. I'm Dan
Winny, W-i-n-n-y, architect, and I'm here
to represent Varney Hintlian and Fresenius
Dialysis Center is proposed.

CONSTANTINE ALEXANDER: While I didn't know -- wait a minute. Is the party in interest here Fresenius?

DAN WINNY: They will run the proposed facility.

CONSTANTINE ALEXANDER: I'm going to have to recuse myself from this case then. My law firm does quite a bit of legal work for Fresenius. I didn't see any reference to Fresenius in the file until you just mentioned it.

DAN WINNY: Well, let's see. I guess Varney Hintlian, the landowner, and I are the applicants. I don't know if that makes any difference.

CONSTANTINE ALEXANDER: Well, I don't know. Help me with the interest that Fresenius has in this.

VARNEY HINTLIAN: I can help you

with that. My name is Varney,
V-a-r-n-e-y-, last name is Hintlian,
H-i-n-t-l-i-a-n. I'm the landlord for the
site at 11 Hurley Street in East
Cambridge. Fresenius is the proposed
tenant for the building that's located at
11 Hurley Street. So they will be the
tenant.

CONSTANTINE ALEXANDER: Well,
Fresenius is seeking -- granting --

VARNEY HINTLIAN: Excuse me.

CONSTANTINE ALEXANDER: It's
Fresenius' interest to have -- to grant
the relief you're seeking tonight on the
site?

VARNEY HINTLIAN: Yes.

CONSTANTINE ALEXANDER: Because of
my involvement, I'm not going to sit on
this case. So, I'm sorry to announce this

at the twelfth hour. This is the first time I heard of Fresenius being involved.

For your benefit, I'm going to sit -- there will only be four members left. To grant relief, Mr. Winny, I think knows, to grant relief you need four out of five votes. You need four votes. If there are five of us, you can have a dissenter and you still -- and relief would be granted. Without me sitting here, there's only four, so you need a unanimous vote. So at least statistically your odds are not as great of getting relief.

You have two choices: You can proceed tonight with the four or you can -- we can continue the case to another night where we can get a fifth member and you'll have the benefit of five people

sitting.

So what is your pleasure?

DAN WINNY: Can we have 30
seconds?

CONSTANTINE ALEXANDER: By all
means of course.

DAN WINNY: And, Mr. Chairman, if
the four member Board should turn down the
case, then it can't be reapplied for for
two years?

CONSTANTINE ALEXANDER: Correct.
Unless it's a substantially different
proposal, which seems unlikely given the
nature of the relief being sought here.
You're right.

DAN WINNY: Correct. Excuse us
for just a moment.

CONSTANTINE ALEXANDER: Go right
ahead.

(A short recess was taken.)

DAN WINNY: We'd like to go ahead, please, with four members.

CONSTANTINE ALEXANDER: I'll step away.

TIMOTHY HUGHES: The case has already been called. The record has reflected that the Chair has been changed to the Vice Chair. You have to forgive me I have a head cold and speak up and I may not do much talking.

Let us know what you want to do, please.

DAN WINNY: Okay, thank you.

So this case is 11 Hurley Street, a dialysis clinic proposed to be run by Fresenius Medical Care. And I'm here tonight with Varney Hintlian who you've already heard from and who is the

landowner and whose family has been in Cambridge almost a hundred years I think. And also with the Kathy Dickey, regional vice president for Fresenius. Jim Kronenwetter, the project manager for New England who would run this project, and Lynne Bamford, B-a-m-f-o-r-d, director of operations.

So this is the building at 11 Hurley Street. A two-story building of 22,000 square feet adjacent to the Galleria Mall. Until recently it's been an office, a lab occupancy. It's currently vacant. While it was an office and lab occupancy, it was entirely Zoning compliant. It has 29 parking spaces. And the average occupancy during that occupancy was 75 people in the building which is about 300 square feet for people which is -- 300 square feet per

person which is very typical for lab and office operations in Kendall Square area.

This next board shows an aerial view of the site showing its parking lot; one in front on Hurley Street and one behind Spring Street with a total of 29 spaces. The Galleria Mall is over here to the right. So the proposal now is to put a dialysis facility into the building with 28 dialysis stations. And that means that there would be an occupancy, the average occupancy during the average shift of 41 people in the building. So the occupancy is almost half what it had been previously during the lab/office occupancy.

Here you can see highlighted on this first floor plan the 22 dialysis stations which are planned on the first floor. The rest of the floor is for mechanical backup

administered and so on and so forth.

On the second floor there are a number six dialysis stations here again highlighted in yellow together with their ancillary administered in another space.

And so what this means is that the nature of dialysis, is that it takes four hours for a dialysis session plus preparation and recovery, and there's usually also medication involved. So that the actual occupancy of the building is by definition restricted by that. If there's a shift in the morning and a shift in the afternoon with 27 to 28 patients and 14 staff, that's where the occupancy of 41 average during the day comes from.

So this proposed use as a clinic is also as-of-right and Zoning Compliant in the district. There's only one issue that

we're here before you tonight, and that's parking because the, this use is classified as a clinic and a clinic has a higher parking ratio than lab and office does. However, because the actual parking and the parking demand is less rather than more, a typical clinic might be scheduling appointments every 15 or 20 minutes during the day for a number of doctors and generating a lot of turn over and parking spaces. By definition, a dialysis clinic has patients who come for half a day at least. They're there for a long time and they may be medicated, and so they generally tend to be picked up and dropped off. So that Fresenius which is a worldwide operation which has a lot of clinics which they can draw on for statistical analysis, estimate that the

actual parking demand for this facility would be 12 spaces needed for the 14 staff, accounting for some who would use public transportation and others. And another 12 spaces for the 27 to 28 patients or the people who bring them who don't just get dropped off and go away. So the estimated parking demand for this facility is actually less than the number of spaces that exist on-site.

So the Zoning offers the possibility of a Special Permit to reduce parking over what the Zoning requires if certain criteria are complied with, and those criteria include availability of nearby alternative public parking, or private parking garages, public transportation, and it also mentions the case of facilities wherefore reasons of age or

medical condition, people aren't likely to use cars.

So what we'd like to suggest is that this facility meets all of those criteria that are required for a Special Permit. This map shows the locations of the alternative parking facilities. Here's a 11 Hurley Street. Here's the public garage on Spring Street right across the street, and here's the Galleria Mall garage. 11 Hurley Street, Spring Street garage, and the Galleria Mall garage. And so there's also on-street metered parking. So that I think this must be one of few very few blocks in the city that have access to so much alternative parking right across the street.

This map also shows the public transportation alternatives with Lechmere

Station -- and here's 11 Hurley Street across from the mall. Lechmere Station up here connecting by bus 59 from Harvard Square with the EZ Ride shuttle running up and down between Lechmere and Kendall and other places, with the Galleria Mall shuttle running between the mall and Kendall Square. The Hubway bike stand. So there's a lot of public transportation alternatives very close to this site.

So we'd like to have you consider that the criteria for reducing parking on to the Special Permit will be met in this case. In fact, due to the nature of the program of the building, it's rather less a matter of finding alternative locations for parking that isn't on-site than it is of the nature of the facility actually not requiring any more parking that exists

on-site. An estimate of 24 spaces for the 41 occupants, and there are 29 spaces existing on-site. Plus of course should there be any need for any more, there are two very large parking garages located right across the street.

TIMOTHY HUGHES: For the record, how many spaces are we talking about a reduction of?

DAN WINNY: Right --

TIMOTHY HUGHES: What does the Ordinance say you're required to have?

DAN WINNY: The Ordinance says one per 300 square feet which would be over 70 spaces for the clinic if it was complying with that Ordinance requirement.

TIMOTHY HUGHES: And number of handicap parking spaces would be existing now or would be tied to that 70 space

number?

DAN WINNY: There are two existing handicap parking spaces which are tied to the existing number of spaces.

TIMOTHY HUGHES: Go ahead.

DOUGLAS MYERS: Would they be retained?

DAN WINNY: Yes. Yes, no change is proposed to the existing facilities. This map actually shows the layout of the parking garages. This was the -- changed a little after design which is why it's separate. But this is the main entrance of the building at 11 Hurley Street, and the two handicap spaces and the ramp are right outside the front door there.

BRENDAN SULLIVAN: Dan, what would be the hours of operation, the first session say?

DAN WINNY: Can I ask a representative for Fresenius to say?

BRENDAN SULLIVAN: Just identify yourself.

LYNNE BAMFORD: Lynne Bamford, director of operations. The hours of operations for the clinic would open at six a.m. and would operate through four-thirty with two patient shifts. Should the need in the Cambridge market grow, they could do evening dialysis. So most units in the area are open evenings, they close by ten p.m.

BRENDAN SULLIVAN: Yes, okay.

TIMOTHY HUGHES: Anything else?

Any other questions from the Board?

(No Response.)

TIMOTHY HUGHES: I'm going to open it up to public testimony.

Are you finished with your presentation?

DAN WINNY: Yes.

TIMOTHY HUGHES: Is there anyone who wants to be heard on this matter?

(No Response.)

TIMOTHY HUGHES: I don't see anyone. There is a letter from the East Cambridge Planning Team which I'll read into the record. It says: Dear Mr. Alexander and Members of the Board -- I'm sure they -- not including me was just an oversight.

(Reading) At our meeting on February 25th Mr. Varney Hintlian and his associates architect Dan Winny, project manager, Jim Kronenwetter, and director of operations, Lynne Bamford explained their plans for this laboratory office building

which is vacant. Although they plan to make no changes to the exterior of the building, the interior will be redesigned to be used as a dialysis clinic. The existing 29 on-site parking spaces comply with Zoning for the former use but not that required for medical clinic use. About three times as many because people come and go at short intervals all day. However, a dialysis clinic operates differently. Most patients spend four hours on a dialysis machine with pre and post medication time as well, so are dropped off and then picked up four to five hours later. Usually there will be 21 patients and 14 staff, 12 of whom need parking spaces. So the maximum number of parking spaces needed at one time probably would be 24. As you said. All 29 spaces

will be kept available however. One BZA criterion for permitting a reduction in required parking is that alternative parking is nearby. The Galleria Mall and First Street garage are very close. Traffic and Parking have approved their plans, and members of the East Cambridge Planning Team present at our meeting were in unanimous agreement that the reduction in required parking spaces is justified and hope you will agree. We'll be glad to have the building occupied once again. With all good wishes and hope for early spring, Barbara Broussard, President ECPT.

That's the sum and total of the correspondence. I'll close public testimony.

Any comments from the Board?

(No Response.)

TIMOTHY HUGHES: We ready for a vote?

JAMES MONTEVERDE: Yes.

TIMOTHY HUGHES: The Chair would move that a Special Permit be granted for reduction in parking for 11 Hurley Street, for the dialysis clinic.

The requirements of the Ordinance can and will be met for the following reasons:

Article 6.35 allows reduced parking where specific conditions exist, including surplus off-street parking in the vicinity, nearby transit, or -- the off-street parking was testified to by Dan Winny. Nearby transit, the Lechmere Train Station is not very far away. There are bus lines in the neighborhood. Public and commercial parking within 300 feet and age

or other occupancy restrictions likely to result in lower demand.

The proposed dialysis facility meets all these criteria. Patients are medicated for each four our treatment and typically dropped off and picked up afterwards.

The traffic generated or patterns of access or egress would not cause congestion, hazard, or substantial change in established neighborhood character for the following reasons:

Experience with similar facilities in and around Boston suggest 41 patients and staff per shift at this facility at full occupancy using 24 parking spaces. 29 spaces currently exist on the site. Occupancy of 41 persons, that's one per every 537 square feet and in case anybody

was counting.

It's about half the actual occupancy of the previous lab/office tenant.

Dialysis occupancy is limited by the specific number of machines and the long duration of each treatment.

C, the continued operation of or the development of adjacent uses as permitted in the Zoning Ordinance would not be adversely affected by the nature of the proposed use for the following reasons:

The abutting uses are commercial and/or parking uses in businesses or industrial districts. The proposed use which is allowed as of right in the district does not directly abut any residential uses or districts.

D, nuisance or hazard would not be created by the detriment of the health,

safety, and welfare of the occupant of the proposed use or the citizens of the City of Cambridge for the following reasons:

The proposed use is allowed as of right as unusually low occupancy and impact due to the nature of the treatment provided.

Convenient local dialysis facility with good access to sustainable transportation options will contribute to the health and welfare of Cambridge citizens.

And E, for other reasons the proposed use would not impair the integrity of the district, adjoining district, or otherwise derogate from the intent and purpose of this Ordinance for the following reasons:

The proposed use is compatible with

the Business A district in which it is located.

On those grounds the Chair would move that the Special Permit be granted.

All those in favor say "Aye."

(Aye.)

TIMOTHY HUGHES: That's four in favor. Permit's granted.

(Hughes, Sullivan, Myers, Monteverde.)

* * * * *

(8:20 p.m.)

(Sitting Members Case #BZA-006082-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006082, 14 Hurlbut
Street.

CHARLES STEWART: I'm Charles
Stewart. I'm one of the owners of 14
Hurlbut Street.

KATHRYN HESS: Kathryn Hess, the
owner.

ETHAN LACY: Ethan Lacy, L-a-c-y.

We're proposing to put a small porch on the front of this house which is currently undergoing a renovation. It's an entry porch in front of the house, and it's six feet by three feet, four inches. So the current house is non-conforming and the porch would make it non-conforming further.

The primary motivation for this is as protection from ice and snow. It's a really steep roof. It's 14, 12 pitch, and where's that picture from the snow? This is what it looked like a few weeks ago.

CONSTANTINE ALEXANDER: Like everybody else's house in Cambridge.

CHARLES STEWART: The difference is -- the difference is before the snow came actually there was already, there was

already ice going down over the aluminum door making it difficult at times to pull the thing open.

ETHAN LACY: So what we're proposing is basically a little gable in the front, six feet wide. It will come out three-foot, four. To shed the snow and ice and to give the house a kind of a new entry. And that's basically it.

CONSTANTINE ALEXANDER: And just to get it into the public record, the primary non-compliance, if we grant relief, would be the front yard setback.

ETHAN LACY: That's right.

CONSTANTINE ALEXANDER: And you're supposed to have 15 feet.

ETHAN LACY: Yes.

CONSTANTINE ALEXANDER: You're currently at nine feet, seven inches. And

you would now be at six feet, four inches.

ETHAN LACY: That's right.

DOUGLAS MYERS: Are you changing the steps in any way?

ETHAN LACY: No. There's currently, there's currently one step up -- currently one sort of platform and then a step up into the house, two steps up. And so the, that relationship will basically stay the same.

DOUGLAS MYERS: The bottom step will not be any closer to the street?

ETHAN LACY: No. In fact, the porch is roughly the same size as the current step. It's a little wider than the current step I'd say.

And we do have some images of other houses on the street, many of which have -- well, certainly covered porches.

CONSTANTINE ALEXANDER: Give them for part of the public record if you don't mind. We want these for our records.

ETHAN LACY: Sure, certainly. You guys can take all of these if you like.

CONSTANTINE ALEXANDER: Give me whatever you want to give me.

ETHAN LACY: Sure, these are Google images from the street.

KATHRYN HESS: This might be the best one for showing your question about the inset. What the size of the porch is now.

CONSTANTINE ALEXANDER: I assume the predecessor owner of this property came before us. It's not the first time we've seen this property.

CHARLES STEWART: Right. There's an attached garage.

CONSTANTINE ALEXANDER: Garage.
It's part of the house.

CHARLES STEWART: It's now
attached.

DOUGLAS MYERS: My only concern is
as part of the renovation, the walkway,
the distance of the walkway to the lowest
step might be reduced which would be out
of keeping with most of the other houses
on Hurlbut Street in the bottom step will
say to be two or three feet closer to the
street, but that's not going to happen?

ETHAN LACY: That's right.

DOUGLAS MYERS: So you've
satisfied my concern.

CONSTANTINE ALEXANDER: Other
questions from members of the Board?

TIMOTHY HUGHES: I'm good.

CONSTANTINE ALEXANDER: I'll open

the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes there is no one. And I don't believe there are any letters from -- one way or another from neighbors or interested citizens.

I will close public testimony. Any comments from members of the Board or should we go for a vote?

TIMOTHY HUGHES: I'm ready for a vote.

DOUGLAS MYERS: Vote.

CONSTANTINE ALEXANDER: Okay, the Chair moves that this Board make the following findings with regard to the Variance being sought:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship to the petitioner. Such hardship being that the petitioner needs a better means of safer and better means of egressing and accessing the house from the front door, because right now they're exposed to the elements without this covered porch.

The hardship is owing to the fact that the structure is non-conforming as it is with regard to front yard setbacks. And so that any relief, any change requires relief.

And that relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of this Ordinance.

In this regard the Chair would note that this proposal seems to have no opposition from the neighbors. And in fact, is aesthetically consistent with a number of houses on street.

And in any event, the relief being sought is modest in nature and the kind of relief we've seen before and granted before with respect to residences in Cambridge.

So, on the basis of these findings, the Chair moves that we grant the Variance being sought on the condition that the work proceed in accordance with plans prepared by Ethan Lacy. They're numbered A0.10, A0.11, A1.24, A1.25, A2.10, A2.11. Each page of which has been initialled by the Chair.

All those in favor of granting the

Variance please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Variance
granted. Good luck.

(Alexander, Hughes, Sullivan,
Myers, Monteverde.)

* * * * *

(8:30 p.m.)

(Sitting Members Case #BZA-006114-2015:

Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, James Monteverde.)

CONSTANTINE ALEXANDER: The Chair will call case No. 006114, 9 Dinsmore Court.

Is there anyone here wishing to be heard on this matter? For the record.

MAHMOOD FIROUZBAKHT: Mr. Chair, members of the Board, my name is Mahmood Firouzbakht. I'm at 7 Prentiss Street in Cambridge. To my left is Mark Boyes-Watson, 30 Bowes Street in Somerville. And I'm the petitioner here at 9-11 Dinsmore Court. We are proposing here to convert a modest sized two-family into a very nice single-family home. I'm -- I'm going to work off my script because, you know, public speaking is --

CONSTANTINE ALEXANDER: However you want to do it.

MAHMOOD FIROUZBAKHT: It's not my forte, so I want to stick to this here.

As part of the scheme, we're proposing an off-street parking space which the property currently doesn't offer any off-street parking. We are proposing to add approximately 165 square feet of living space, which will hopefully make this home a little bit more liveable and provide for floor plans that will be functional. And I guess the idea adding this additional square footage would be to make this home more liveable for the different phases of a household in a family's life so that this becomes a home that's, that presumably the homeowner will buy and stay in for, for a long period of

time, which is something I know that the city is a fan of and it's sort of good for the fabric of a neighborhood.

CONSTANTINE ALEXANDER: You're converting a two-family into a single-family?

MAHMOOD FIROUZBAKHT: Yes.

I worked with Mark here because he's obviously, you know, great at doing historic rehabilitation. And this project proposes to do historic rehab consistent with the Crown Marsh Conservation District Commission regulations, which this property happens to be in that district. We have a Certificate of Appropriateness. I believe that should be in the file, Mr. Chair.

CONSTANTINE ALEXANDER: It is in the file.

MAHMOOD FIROUZBAKHT: I've done a bunch of -- a good amount of neighborhood outreach. Reached out to neighbors and abutters. I circulated a letter, introduced myself to whoever was sort of available. And the general sentiment from neighbors and abutters is positive. I think everyone that I talked to was looking forward to having this property sort of taken out it's, you know, otherwise pretty poor condition and brought back to life.

We have some inherent areas of hardship here with this project. The irregular size and shape of the lot is one area that is challenging. In part, the irregular size of the lot and the size -- the irregular shape and the size is due to a taking by the Cambridge

Redevelopment Authority like back in 1959. And so now we're sort of dealing with the consequences of that taking that happened many years ago.

The property currently is in very poor condition, close to not habitable. And in order to preserve the historic streetscape, we're proposing to keep the addition towards the rear of the property. And Mark will speak more to that in terms of the guidelines and the Crown Marsh District -- Conservation District Commission. But that entails then putting the structure, the additional construction in the back, which then, you know, is in the setback which brings us to this fine Board.

We are not, though, increasing -- we're not violating FAR.

We're still within the FAR requirements, and we're not increasing the already current setback violations. So we're sort of keeping within the same envelope and the same planes but in-filling in the back of the lot.

We are proposing to create one non-conforming parking space, and that's another area of relief that we require, but I think the net with respect --

CONSTANTINE ALEXANDER: What's the hardship that justifies granting you a Variance for the front yard parking?

MARK BOYES-WATSON: I think if you look at the way that the lot works, it's tricky because of that diagonal cut off from the taking.

You don't mind me answering that.

MAHMOOD FIROUZBAKHT: No, go for

it.

MARK BOYES-WATSON: This is the taking here. It's actually interesting, because there's lots more than 2,500 square feet which is Res B, more or less one unit and that's sort of interesting. But relative to the question, what's happening here is a series of very similar houses that are down and small, and that's why Historic's all about keep it as you can, hide everything you're doing, which is why that little bay and the stuff at the back.

And yes, here obviously if you were to move it towards the house, not only is it unpleasant for the house --

CONSTANTINE ALEXANDER: What if you didn't have any on-site parking?

MARK BOYES-WATSON: That would be

an alternative to have no off-street parking.

CONSTANTINE ALEXANDER: What's the hardship that would justify us granting you relief to allow on-site parking?

MARK BOYES-WATSON: I think looking for the -- we could have had -- if the lot was not -- configure this way, we could put this space in here absolutely fine. But you're right, the alternative -- the hardship is that the lot doesn't allow us to get -- we're trying to be conforming.

CONSTANTINE ALEXANDER: Does anybody else have off-street parking?

MARK BOYES-WATSON: I think one other property -- the property over here has one.

CONSTANTINE ALEXANDER: But the

structure right to the --

MARK BOYES-WATSON: This one does not. This one does not. And the ones across the street do not.

MAHMOOD FIROUZBAKHT: The folks across the street none do. And so I think, I mean, in terms of the hardship, it's sort of like a community hardship because the -- including this property where --

CONSTANTINE ALEXANDER: The only issue is always the issue with front yard parking is that you are disrupting the parking in the area. You're in effect appropriating a parking space.

MARK BOYES-WATSON: Well, they actually park on the other side. The way that it works -- it's one of those private ways and it's all those strange

arrangements with the private ways.

CONSTANTINE ALEXANDER: We heard about it with Mr. Rafferty's case.

MARK BOYES-WATSON: So actually this case they park on the river side of the street, it's not on this street. It doesn't remove a car. So it's an increased amenity on the block. I won't speak to it because you talked to them. What did people say about it?

MAHMOOD FIROUZBAKHT: That was generally received well and to have this additional off-street parking space because, because of the fact that you don't eliminate an off-street parking space and you're creating, you know, an on-street parking space and you're creating one additional spot. I mean, people generally like this proposal, too,

because we're reducing the house from a two-family to a single-family. So presumably --

CONSTANTINE ALEXANDER: That's a different issue. You already addressed that.

MAHMOOD FIROUZBAKHT: There will be fewer people parking as users of this house. So that, I think, the net, you know, which leads to sort of the idea that this project is consistent with the intent and the purpose of the code and that the intensity of the use of the building is being reduced with this proposal.

DOUGLAS MYERS: On this particular point are you taking any measures to reduce the generally regarded unfavorable aesthetic impact of the off-street parking? Are you doing anything about

that or will the car simply stand in an open space?

MARK BOYES-WATSON: We are actually -- and we, when we were in front of the Crown Marsh -- is it Marsh Crown or Crown Marsh? I always get that wrong. We have a landscape plan which actually I don't have, it was wasn't part of the BZA application. And what we propose to have small shrubbery and decorative trees in front of the house. I think magnolia is called out in the landscape plan, and then actually a privet hedge borders here such that when you look down Dinsmore Court, you won't see this car.

CONSTANTINE ALEXANDER: The hedge will be so high that you won't see the top of the car?

MARK BOYES-WATSON: Yeah, well,

maybe it's four or five feet, yeah, you pretty much screen it, yeah.

DOUGLAS MYERS: Could there be some sort of attractive fence barrier aesthetically pleasing from the east side?

MARK BOYES-WATSON: From the east side, you mean somewhere here? Yes. Because in fact, it's consistent with trying, trying to get this to be the private garden because there's no rear garden. So that's consistent. In fact, that's -- we actually didn't show it reinforced with the fence. The privet hedge or whatever hedge it is could be re-enforced with a hedge. It's interesting that this space at this end is also in the front yard. We might have granted relief for that in some prior time. But, yes, so we, we talked about

two things in front of the Crown Marsh, which was that it's right at the very far end of Dinsmore, and that we had the ability -- because unlike all these other houses that are very close together, we have the ability to landscape this.

DOUGLAS MYERS: Is it your intention to landscape it?

MARK BOYES-WATSON: Yes. We committed to it as part of our --

DOUGLAS MYERS: Including, including the parking space if it's approved?

MARK BOYES-WATSON: Yes. We committed to that, yes.

MAHMOOD FIROUZBAKHT: And the parking, the materials we would use for the parking space would be some kind of a nice paver material, so it wouldn't be

asphalt, you know, or concrete. So it would be attractive material, but then we obviously, then we would landscape around the front.

CONSTANTINE ALEXANDER: It's -- is that a condition from the Half Crown whatever it is?

MARK BOYES-WATSON: I don't think they conditioned the pavers particularly.

CONSTANTINE ALEXANDER: Just the landscaping?

MAHMOOD FIROUZBAKHT: Yes.

And I think likely in terms of fencing we would do three or four foot, you know, wooden picket fence in the front and then the landscaping around that, you know, would be the idea.

MARK BOYES-WATSON: Because that's the ruling kind of feeling down the

street. This is the kind of end of the street, and there are trees associated with the river side, right? River view. River view. So there are low fences. So we don't want to like crowd the street, but once you get beyond the last structure, we felt that that's fairly easy to screen.

CONSTANTINE ALEXANDER: I noticed looking at the plans that although you're going to convert from a two-family to a one-family, you're still retaining two doorways.

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: One door going to be a mock door?

MARK BOYES-WATSON: Yes, yes.

CONSTANTINE ALEXANDER: What's the attention to detail to make sure that the

streetscape is all consistent?

MARK BOYES-WATSON: Consistent.
And it was actually done on one of the
other houses on the street, same thing.

CONSTANTINE ALEXANDER: Oh,
really?

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: Another
single-family house that's got a mock
door?

MARK BOYES-WATSON: Do you know
which one it is?

MAHMOOD FIROUZBAKHT: It's across
the street. I don't know which one.

CONSTANTINE ALEXANDER: The one
with the -- that's open -- whatever it is?

MARK BOYES-WATSON: No, not the
one with the extra funny piece on the
front. No. Across the street.

CONSTANTINE ALEXANDER: Keep going if you have any more to go.

MAHMOOD FIROUZBAKHT: Would you like to see more of the plans?

CONSTANTINE ALEXANDER: I've seen them here. I assume those the same.

MARK BOYES-WATSON: Same, yes. Should I quickly run through?

So just maybe very quickly show where the --

CONSTANTINE ALEXANDER: Let me ask you this: You're seeking -- both on the parking, both a Variance and a Special Permit?

MARK BOYES-WATSON: Special Permit because, you know, strictly speaking there should be five-foot setback here, and that's a Special Permit. Whereas, the front yard parking is a Variance so we

asked for both.

CONSTANTINE ALEXANDER: Got it.

MARK BOYES-WATSON: So, yes. Just to rehearse that. So on the parking space, it's in the front yard which arguably is the full 15 feet because a Res B and you could be the same line as the structures, but the front yard Variance and that works like that. When you come to the house itself, as Mahmood was saying, in order to restore -- we're going to restore all the historic details on the house, add a bay here, which doesn't require any relief, but at the back here there's strange stuff goes back here. And the next-door property here on Willard has a garage right here, so there's actually nobody here. And so the proposal is just to in-fill and tidy up all of the back of

this building such that you in-fill this on the first floor, and again on the second floor. And that is -- so I should do it using this because it's quicker. So, so here you see that that in-fill, and actually there's a thin line here that shows where the existing building actually comes right out to this line, but it's all weird and goes in and out. So basically we're building out to the existing line in-filling the corner. And that allows us to tidy up what is currently a pretty ugly architecture and just end up with still a very simple mansard which is what these were. These were little workers' cottages. And we're not yucking it up. We're just pulling back -- putting it all back together. It's in terrible disrepair, this house, and just

reconstructing it.

CONSTANTINE ALEXANDER: I didn't notice this before, you're changing the dormer on the arrangement on the west elevation?

MARK BOYES-WATSON: Well, this -- yes, we got a slightly -- this is the master bedroom, slightly looking dormer looking over the garden.

CONSTANTINE ALEXANDER: And you're in compliance with the dormer guidelines?

MARK BOYES-WATSON: You know what, we had this discussion. I don't think it's a dormer when it's on a mansard. I don't know how it applies.

CONSTANTINE ALEXANDER: I don't know either.

MARK BOYES-WATSON: Yeah, I don't think it really -- they weren't written

for the mansard, so I think it's cool. Actually, if you go through lots of the historic houses, they do all those things on the mansards especially when they're over a bay, they enjoy it a little bit more.

MAHMOOD FIROUZBAKHT: And because we're sort of improving and beautifying the yard and paid attention to inviting the open space into the home by, you know, adding some additional windows and this doorway here on the side. So this I mean, it's still a pretty modest size home relatively speaking, but it will be a very nice home for a household.

MARK BOYES-WATSON: And as Mahmood said, it basically is bringing it up to the allowed GFA as far as the GFA. But one of the -- the relief requested is

increasing existing non-conforming structure. And it's actually almost exactly ten percent of its area, but it's volumetrically more like between the 10 and 25.

CONSTANTINE ALEXANDER: The home will have 1824 square feet. That's not that modest.

MARK BOYES-WATSON: No, it will be nice.

CONSTANTINE ALEXANDER: I've heard several times about this modest structure, but actually it's not that modest.

MARK BOYES-WATSON: It should be stunning. It's interesting, though, again relative to the lot that actually given the Res B 5,000 square foot for PDU, this is pretty much -- the lot area is pretty much half that. So in some ways one unit

in the Res B in the Zone is kind of appropriate.

CONSTANTINE ALEXANDER: Okay.

Questions from members of the Board?

(No Response.)

CONSTANTINE ALEXANDER: I have one comment. You are of course aware that we don't look with favor on parking in the front yards. Neither does the Planning Board historically, at least. The Planning Board has chosen not to comment on this case for whatever reason. And I would observe, speaking personally, that this looks like a case for an exception for the -- basically the bias against front yard parking. Like I said, it's at the very end of the street and it doesn't take away one of the parking spaces from the streetscape because of the arrangement

you've described to us. So this is not -- and there will be landscaping that will shield the usually the aesthetic impact, adverse aesthetic impact of front yard parking. So I mean, I would just observe personally, but I think that this is -- it is not the usual caveats and revoltion (sic) against front yard setbacks simply don't apply, that's my view.

I'll open the matter up to public testimony. Is there anyone here wishing to be heard on this matter?

(No Response.)

CONSTANTINE ALEXANDER: The Chair notes no one wishes to be heard. We are in receipt of correspondence which I will read into the record.

As I mentioned, we have no comment

one way or the other from the Planning Board. We are in receipt of an e-mail from Amanda Rodrigues addressed to Mr. Firouzbakht. (Reading) Sorry for taking so long to reply. This is a reply and request from Mahmood to get her support for the project.

Anyway -- sorry for taking so long to reply. I imagine that the hearing had to be rescheduled due to the endless snow. We have no objections to your plans. I am sure that you will greatly improve the property.

MAHMOOD FIROUZBAKHT: Amanda Rodrigues is the homeowner to the rear of our lot.

CONSTANTINE ALEXANDER: On Willard Street?

MARK BOYES-WATSON: Yes. The one

that has the garage on Willard, yep.

CONSTANTINE ALEXANDER: The one with the garage?

We have a letter from Jennifer Jones. (Reading) Thank you -- again addressed to Mr. Firouzbakht. Thank you for reviewing with me your renovations plans for 9 Dinsmore Court. I have no objections for the project as presented, and I'm grateful that this declining property will be resuscitated.

We have a letter from Joan Pickett, P-i-c-k-e-t-t, who resides at 59 Ellery Street.

MAHMOOD FIROUZBAKHT: You don't have to read that whole letter. It's in the file.

CONSTANTINE ALEXANDER: My --

DOUGLAS MYERS: You modestly

disclaim some very high praise from the letter.

CONSTANTINE ALEXANDER: That's right. The reason I did a double take, is I said, what's Ellery Street have to do with this property? But she's the presiding officer of the Mid-Cambridge neighborhood association. Which is, as you mentioned, the Half Crown Marsh District. I got it right. Have supported. And there is a Certificate of Appropriateness in the file from the Half Crown Marsh Neighborhood Conservation District Commission improving -- endorsing, approving, approving the application that you submitted which is the same that we have here.

And that's all we have in the public

record.

I'm going to close public testimony. Is there anyone here wishing -- I mean, any discussion? This case bears some discussing or go to a vote?

DOUGLAS MYERS: I would just like to say that I share the Chair's point of view that I'm usually very skeptical and disinclined to approve off-street parking, especially front yard off-street parking, but I think this is a very strong case for an exception on a dead end street. A congested dead end street. We're removing a car from the street will be felt as a positive effect on the neighborhood. And where this -- as long as it's adequately screened and is very considerable with regard to the aesthetic impact, this seems to be extremely efficient use of the space

involved and directly relates to the particular characteristics of the lot and the land itself. So I would support it.

CONSTANTINE ALEXANDER: Thank you. Anyone else wishes to speak?

TIMOTHY HUGHES: All good.

CONSTANTINE ALEXANDER: Okay, let's go for votes. We have two votes: One for the Variance and one for the Special Permit.

With regard to the Variance, the Chair moves that we make the following findings:

That a literal enforcement of the provisions of the Ordinance would involve a substantial hardship being that this is a delapidated property in need of rehabilitation, and that the only way to effectively do this from an economic point

of view is to make the types of changes the petitioner is proposing to make.

That the hardship is owing to the shape of the lot. It's a very odd shaped lot. And the structure is also a non-conforming structure between the two. Any kind of modification of the structure would require relief.

And that the relief may be granted without substantial detriment to the public good or nullifying or substantially derogating from the intent and purpose of the Ordinance.

In this regard, with regard to the off-street parking, what is being proposed will not derogate from the intent and purpose of our Ordinance since there is no parking on the side, permitted under the -- under the neighborhood requirements

allowed on the side of the street where the off-street parking will occur. And, therefore, there is no withdrawal or appropriation to one person's benefit, a parking space on the street.

And that given the fact that this is a narrow and short private way, that anything that gets cars off the street and on to the property and in an unobtrusive way is to the benefit of the community.

So on the basis of all of these findings, the Chair moves that we grant the Variance being sought with regard to parking and to the addition on the condition that the work proceed in accordance with the plans prepared by Boyes-Watson Architects. They were issued January 19, 2015, the first page of which has been initialled by the Chair.

All those in favor of the granting the Variance, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

CONSTANTINE ALEXANDER: Now the Special Permit. I'll go to a different section of the Ordinance.

With regard to the Special Permit being sought the Chair would make propose the following findings --

BRENDAN SULLIVAN: It would be the first category.

MARK BOYES-WATSON: 6.441(b) maybe? Yeah, there you go. Third sentence down.

CONSTANTINE ALEXANDER: My book

has no b.

DOUGLAS MYERS: 6.44.1(b).

CONSTANTINE ALEXANDER: Now I got it.

Okay.

And this section provides that essentially no on grade open parking spaces or driveway shall be located within five feet of any side or rear property line, and of course what is being proposed will be within five feet. So 6.44.1(g) says we may grant a Special Permit to allow modifications of this requirement. And with regard to the Special Permit, the Chair moves we make the following findings:

That clearly that the requirements of the Ordinance cannot be met without the Special Permit.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

In this regard what is on the -- is that Riverway Apartments?

MARK BOYES-WATSON: Riverview.

CONSTANTINE ALEXANDER: Riverview. So it's not a single-family residence to the like?

MARK BOYES-WATSON: No, it's a condominium. Riverview is actually a condominium which are low and then there's the tall building.

CONSTANTINE ALEXANDER: That continued operation of adjacent uses will not be adversely affected by what you're proposing.

That no nuisance or hazard will be

created to the detriment of the health, safety, and welfare of the occupant or the citizens of the city.

And that what you're proposing will not impair the integrity of the district or adjoining district or otherwise derogate from the intent and purpose of this Ordinance.

Again, in regard to all of these, the fact that we have an odd shaped lot, that it abuts a large condominium development. And so the impact on neighboring properties is virtually nil.

So on the basis of all these findings -- yes, sir.

MARK BOYES-WATSON: I'm just noticing in the application that we also requested a Special Permit as there's a couple windows in the back that are

existing, non-conforming facade which is also a Special Permit.

CONSTANTINE ALEXANDER: But is it in the advertisement?

MARK BOYES-WATSON: Yes. It's the first one. First one of the Special Permit. We just bring it to your attention.

CONSTANTINE ALEXANDER: The Special Permit says parking within the requirement setbacks. And then you cite 8.22.2.

Where is the reference to windows?

MARK BOYES-WATSON: Is this what we submitted?

MAHMOOD FIROUZBAKHT: Yes.

MARK BOYES-WATSON: So I'm looking at --

CONSTANTINE ALEXANDER: Well, you

do pick up the right section, 8.22.2.

MARK BOYES-WATSON: Yes.

CONSTANTINE ALEXANDER: So even though I think you should have identified --

MARK BOYES-WATSON: Well, then it says -- under -- fenestration changes within a non-conforming setback. At least in the description. You see that?

CONSTANTINE ALEXANDER: I'm looking at the public advertisement that people receive. I don't find -- given the right section was cited, I don't find the omission of the window relief troublesome in the -- with regard to adequate notice.

So, with regard to this Special Permit, the Special Permit would be both for the parking to be within five feet of the setbacks of the property line for the

parking, and also the relocation of windows all as shown on the plans previously identified with regard to the Variance, and they apply it to the Special Permit as well.

All those in favor of granting relief, please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Good luck.

MAHMOOD FIROUZBAKHT: Thank you very much.

(Alexander, Hughes, Sullivan, Meyers, Monteverde.)

* * * * *

(8:55 p.m.)

(Sitting Members Case #BZA-006133-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006133, 209 Broadway.

Is there anyone here wishing to be
heard on this matter?

JAI KHALSA: Good evening.

ATTORNEY ANTHONY GALLUCCIO: Good evening, Mr. Chair, Honorable Members. Anthony Galluccio, Galluccio and Watson at 1498 Cambridge Street.

FROM THE AUDIENCE: Excuse me, can it be done so we in the front can hear what's said and being displayed?

CONSTANTINE ALEXANDER: Yes. Move your chair around the side. Feel free. It's not a great set up. We do the best we can.

DOUGLAS MYERS: You're entitled to hear. Do what you have to do.

CONSTANTINE ALEXANDER: Anybody who has trouble hearing, come close and come around and --

ATTORNEY ANTHONY GALLUCCIO:
Again, my name is Anthony Galluccio. I'm

a partner with Galluccio and Watson. I represent Peter Lee who is the buyer of 209 Broadway. I know there's an owner's representative here as well. I'm joined by an architect this evening. We're requesting relief as submitted. I'll let Jai just run through the proposal on I believe he's got both a presentation and that includes the current condition as well as what would be an as-of-right proposal. And lastly, the proposal that's before you tonight that would allow for six residential units. We're requesting setback relief and open space relief. Otherwise the project conforms. We had initially thought of a seven-unit scheme and we were hesitant to request parking relief. It would have conformed otherwise. We think this is -- we think

this is a plan that conforms with the existing residential units. I know there's at least one abutter here in support.

We did go before the Planning Board last week. Planning Board has recommended the project. They did ask us to submit a landscaping plan which I'm hoping was conveyed to you. But we do have copies of that.

CONSTANTINE ALEXANDER: That is was already in your submission before, wasn't it?

JAI KHALSA: This plan was not in the original submission, no.

ATTORNEY ANTHONY GALLUCCIO: Yeah, that's post-plan.

JAI KHALSA: There are several copies there. If you need some more, I've

got a few more.

CONSTANTINE ALEXANDER: I trust in your presentation you're going to talk about the substantial hardship that you have to justify to get the relief.

ATTORNEY ANTHONY GALLUCCIO: We will.

JAI KHALSA: There were some minor design changes to one of the facades on the building that was submitted to staff. There's two copies here.

CONSTANTINE ALEXANDER: This is different than what's in our file right now?

JAI KHALSA: This is very close to what's in your file.

CONSTANTINE ALEXANDER: It's different?

JAI KHALSA: Yes, this is

different and I will point out what's different.

CONSTANTINE ALEXANDER: Well, I'm going to reserve judgment as to whether this is a modest change, because if it's not, we're not going to hear the case. You're supposed to have these in our file by five p.m. on the Monday before.

JAI KHALSA: And they were submitted.

CONSTANTINE ALEXANDER: If they were, then we have them in our file.

JAI KHALSA: They were submitted electronically. So I don't know if you have them in your files or not.

ATTORNEY ANTHONY GALLUCCIO: Jai. The landscaping plan was submitted to ISD over three days ago post-Planning Board request and the --

CONSTANTINE ALEXANDER: This is what's in our file now.

ATTORNEY ANTHONY GALLUCCIO: That's our original application.

CONSTANTINE ALEXANDER: And this is a new set of plans? This is different than these plans is what I'm asking?

JAI KHALSA: The original set of plans slightly differs from these in that there's more windows on these, and this incorporates the requested changes of the Planning Board. That's the changes.

CONSTANTINE ALEXANDER: I'm going to reserve -- we'll go into the case as to whether, in my judgment at least, whether we hear the case at all.

JAI KHALSA: Sure.

The other thing that was --

DOUGLAS MYERS: If we come too far

down the road it could be a case heard.

CONSTANTINE ALEXANDER: I'm prepared to accept that.

JAI KHALSA: The other thing that the Board requested was a --

ATTORNEY ANTHONY GALLUCCIO: Actually I asked for -- I asked you to do that, Jai. And if it will interfere with the, with your submission, I thought it was appropriate to submit what would be an as-of-right plan so that the Board could contrast --

CONSTANTINE ALEXANDER: That's all right.

ATTORNEY ANTHONY GALLUCCIO: Hopefully that won't alter the review, but I thought that would be helpful.

CONSTANTINE ALEXANDER: You keep referring to as of right. There's a basic

assumption here that I don't agree with. And that as of right -- you start with the fact that we have to have a six-unit residential structure. And what can we do as of right for six units and what does the Zoning require? This is not the case. This property can be used for an awful lot of uses. It's zoned commercial for business. It can be used for business purposes.

It can be used as it was in the past.

It could be used for residential purposes but not six units.

You've got to address the point of view as why we have to allow six residential units in this property.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, I'm familiar with the Zoning.

I am familiar with the BA Zone and I do understand that it allows both residential and businesses uses. We're applying for a Variance for purposes of residential for constructing six residential units. We believe that the shape of the lot, and you probably have a plan of that before you, presents a real hardship to presenting what we think is an appropriate residential plan.

CONSTANTINE ALEXANDER: So do a business development, commercial development. If there's -- it's been used commercially for decades. Why do you -- I mean, that's my point. You're assuming that you have a right to have a residential use, and you're further assuming that we have to have six units. And I don't buy either one of those

personally.

ATTORNEY ANTHONY GALLUCCIO: I can't speak to a business proposal and how the neighborhood would respond. I'm not sure that a continued retail use that brings more vehicles to that site would be, would be something the neighborhood would be supportive of. Again, I know that at least one abutter that's here that believes residential is, is important. As somebody who's looked at the site for a long time, you know, it's been a heavily utilized site for automobiles. And if you see existing condition, there's cars surrounded on the lot and off the lot. That's for the neighborhood to judge as to whether this is an improved condition. We believe it is. But that's really for the Board to decide.

CONSTANTINE ALEXANDER: Okay.

ATTORNEY ANTHONY GALLUCCIO: And I appreciate your pointing out. You could use the existing building, and I guess put a convenience store in there or continue as a gas station or an auto sales.

CONSTANTINE ALEXANDER: Or a modest commercial building. I mean, you don't have to build -- not just a gas station. You could have a two-story or a three-story commercial space. This is a very hot area with year round parking, so that would satisfy the parking. You could have a very modest townhouse development here, one residential. It wouldn't be six units.

ATTORNEY ANTHONY GALLUCCIO: We can show you that. We do believe that a residential project is more appropriate

with the surrounding neighborhood. If you're familiar with the history of the site, there's been a significant amount of controversy around lab noise and nuisance in that area and we think that a residential transition from the lab environment makes sense for the neighborhood. But, again --

CONSTANTINE ALEXANDER: Even though business, it is a business district.

ATTORNEY ANTHONY GALLUCCIO: It allows both residential and business.

CONSTANTINE ALEXANDER: Well, of course, it does that. But the point -- the City Council has determined that this, this area should be basically a business use.

ATTORNEY ANTHONY GALLUCCIO: Well,

and I would argue that a BA Zone presents a residential incentive by way of an FAR increase because I believe the city has a foundational principle to encourage residential in this Zone, and we agree with that.

CONSTANTINE ALEXANDER: I'm, sorry sir, you want to start your presentation?

JAI KHALSA: Sure.

Want to start with the --

CONSTANTINE ALEXANDER: Wherever you want to start.

JAI KHALSA: -- the fully conforming property? I think I gave you about half a dozen of these. Members might want to look at them while I describe it.

CONSTANTINE ALEXANDER: I'll pass them out.

JAI KHALSA: The diagram you have is of a fully conforming building on the site.

CONSTANTINE ALEXANDER: How many residential units?

JAI KHALSA: It has two residential units.

CONSTANTINE ALEXANDER: Okay. And the rest of the building is used for?

JAI KHALSA: It's all residential.

CONSTANTINE ALEXANDER: So you have -- this will be just two residential units?

JAI KHALSA: That's correct. You could do approximately 800 square feet on the first floor and about 1300 square feet on the second and third floors. This has -- since you have four front yards -- three front yards and a

triangular shaped lot to be able to conform with the 15-by-15 landscape area. You'll see on the right-hand side of the diagram there, that that's the required compliant at grade open space. And then you get this triangular little wedge of a building in here which starts at five feet wide and flares out to approximately 23, 24 feet wide down at the other end. Okay?

And that -- and it has the ten-foot setback all around because the ten -- your setback is by formula. I don't need to tell you, but it's from the center line of the street or a minimum of ten feet. The center line of street given the height and length ratio would have been less than ten feet substantially.

Also I think it's -- so this is something you could go in and get a

building permit on. And really, you can only fit two cars in there. And that's, that's what you can do with the property, with the residences.

The BA Zone does allow for commercial uses with zero setback from the lot line, and indeed the fabric of most the neighborhood is a zero lot line setback and much of it is residential down on Market Street and on Clark Street. So it fits into the fabric appropriately of the neighborhood from an urban planning aspect.

If we go to your set of drawings that you have there, I just want to point out the site is located here.

CONSTANTINE ALEXANDER: Are you going to point out how these are different than the ones we have in our file?

JAI KHALSA: I will do that.

CONSTANTINE ALEXANDER: Okay.

JAI KHALSA: The site is located here. It's this tiny little triangle here. And your next page has some site context photos. In case you're not familiar with the site and the location, I can tell probably everybody's familiar with the site location, I don't need to go through that.

And then your next page here is a panoramic shot in the neighborhood there. In the middle of the site is our proposed building which we're proposing to be 35 feet tall, three stories, a mix of clapboard and brick, and something that we feel is very appropriate to the neighborhood.

Essentially what we're proposing is

two, three-family buildings that are connected with outside deck spaces to be used by the units privately. And the deck covers over your driveway coming in. So you pull in the garages right from the left from one curb cut. We're closing up all the curb cuts around the site except one which comes in off of Market Street. So the city will get back a lot of frontage. A lot of parking meters.

And the next picture here you have is looking down Broadway the other direction, and this is the building here you can see. And you can see the relative scale to what's in the foreground here and how the building matches in terms of scale.

CONSTANTINE ALEXANDER: Which is the building? Right there, I see it.

JAI KHALSA: The residential is here. This is our proposed, proposed buildings there. Okay?

And then you have one more shot here which is looking down Meeting Street (sic). And, again, you get -- you can see the relative scale to the neighborhood and how the building is appropriately scaled for the neighborhood. And that's why we're proposing to do a 35-foot tall building, not the 45-foot limit of what can be done with it. All right?

But, again, what we're asking for specifically is relief on the front yard setback because we have all front yards. And that we're accommodating most of the open space on an elevated level on a deck as opposed to at grade. Otherwise we comply.

The next page it says the materials board. I think we'll skip over the materials board. And then the next page is the existing site. You can see right now there is the garage building here. You have a line of overhead canopy here and your boundary of the rather challenging pie-shaped lot.

And the next page here shows our proposed footprint on the lot where we're proposing three units here, three units here, at grade open space on this end here. We propose to have a driveway come in off of Market Street, pull left or right in the garages underneath the building so that you have off-street parking.

And the next page if you look at the middle picture, you can see in a little

bit more detail where the parking spaces are and how the circulation in the building works. And then essentially we have three row houses there. So row house pipe scheme up vertically through the building.

We'll skip over the -- well, let's look at this page as well. The elevated outdoor spaces we're proposing are in this area here which are broken down into the units that are adjacent to them. You have a building here and a building here, and you have the deck spaces here happening. And then this is your outside space at grade in the front here as well around where the curve of the building is on the corner of that lot.

CONSTANTINE ALEXANDER: Is it one unit that has an outdoor deck?

JAI KHALSA: We've broken it up into one, two, three, four units that have decks here --

CONSTANTINE ALEXANDER: Okay.

JAI KHALSA: -- and then you have one here which is a fifth unit. And the unit at the end here has outdoor space at grade. So every unit has outdoor space.

DOUGLAS MYERS: And the unit fronting Broadway will have a deck at what level?

JAI KHALSA: This one here?

DOUGLAS MYERS: Yes.

JAI KHALSA: The deck is at the second floor -- or the third floor deck level. There's no roof decks that occurs in the third floor. It's a cut in into the area of the building itself.

DOUGLAS MYERS: What's the

approximate dimensions of the deck?

JAI KHALSA: The approximate dimensions are eight-foot-six-by-eleven-foot-two.

That's just the one private deck up there.

And the last page here we have the different elevations.

Now, the changes that were made to the design from what you had is addition of windows here and here on the Broadway elevation. Those were the changes. Okay? Based on the Planning Board comments. All right?

CONSTANTINE ALEXANDER: Those are the only changes?

JAI KHALSA: Those were the only changes to the building.

CONSTANTINE ALEXANDER: I'm

satisfied, then, that we can proceed tonight with what you're saying. These are not major changes to what we have in our files.

JAI KHALSA: Right, thank you.

Then I want to go to the landscape plan which was handed out. And the Planning Board requested us to flush out the landscape more, which we did. Because we don't have a tremendous amount of landscape opportunity on the site itself, what we're proposing to do is to beef up the landscape around the site on the street. There is a Cambridge standard for the development of landscape on Broadway and sidewalks, and we're proposing to institute the Cambridge standard there continuing it down the street, which means we have a break apron up along the curb

and a series of new trees and tree wells. We're carrying the tree plantings down around Market Street as well. The other thing we've done as well is we initially showed the yard space here as being larger in terms of the fully private area. We pulled that line back so the private yard space is a little smaller and you've got some little public yard area there as well.

CONSTANTINE ALEXANDER: Where are the sidewalks that the Planning Board asked for?

JAI KHALSA: The sidewalk treatment is here.

The red strip.

CONSTANTINE ALEXANDER: The red strip?

JAI KHALSA: Yeah, that's the red

strip.

Which you look at the top pictures here indicates a photograph of Broadway and how the treatment is done in other areas along there. So we're happy to do that type of thing. The picture up here on my upper left, your upper right, is how the treatment would be of the little yard space along the public edge there. And the picture here is of the planting types that would occur along the public edge.

DOUGLAS MYERS: Am I missing the picture of what the public area would look like?

JAI KHALSA: I'm sorry?

DOUGLAS MYERS: Is there a picture of what the public area would look like?

JAI KHALSA: There's no perspective per se of it. But you've got

your yard which was square off and he's got a --

DOUGLAS MYERS: And a circular.

JAI KHALSA: He's got a circular little area at the end where he has planting beds. A seating wall. We have an 18-inch seating wall. 18-inch deep, two feet high around that edge. So it's a little, you know, give back in terms of a vest pocket park type of thing where you could have relief on the conner there.

And then he's got a variety of plantings there. I'm not going to pretend that I'm a landscape architect and interpret what all those plantings are for you. But he also has a woman with a dog.

CONSTANTINE ALEXANDER: But your proposal is that you would, if we grant relief, the relief would be subject to

landscaping that complies?

JAI KHALSA: Yes.

ATTORNEY ANTHONY GALLUCCIO: Yes.

JAI KHALSA: Correct. Absolutely.

So I think it brought a lot of richness to the landscape. The other thing he did is in the area here under the private decks above, he went with a different type of a paver in that area so you could increase sort of the richness and the quality of that parking port as you came driving in.

One other thing that we did as well, is the only curb cut is over here on Market and we've closed off the end of the building there by carrying the foundation wall across. And it's a, it's a stone treatment on the foundation wall. And then doing a fence, a wrought iron type

fence on the top of that so it closes off that end of the parking, we don't want driving through there.

Okay, and that's my part of the presentation.

CONSTANTINE ALEXANDER: Thank you.

JAI KHALSA: I would be happy to answer any questions.

CONSTANTINE ALEXANDER: Other questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: There appears to be none. Keep going?

ATTORNEY ANTHONY GALLUCCIO: No, I just -- I did -- I know the owner of the property is here. I wasn't -- we haven't met face-to-face because he's up in New Hampshire, so I just wanted to confirm

that he was here.

No, Mr. Chair, and I appreciate comments and questions that you have. The reality of this site is given the triangular shape and given the setback requirements, the as-of-right-plan is not a feasible one. I mean, I think it's fair to say --

CONSTANTINE ALEXANDER: For residential use.

ATTORNEY ANTHONY GALLUCCIO: Well, it's, it's not feasible I don't think for residential use.

CONSTANTINE ALEXANDER: Right, I understand that. But my point continues to be you have, you have the whole range of business uses that you could use this property without a Variance for.

ATTORNEY ANTHONY GALLUCCIO: And I

don't want to be repetitive, but I do believe the Zoning, and I'm hopefully that you'll hear tonight that the neighborhood believes that residential is a preferred use there. Again, the history of the site states that business, at least the lab use is on one side, have been challenging for the community and we think a residential development of this nature will protect the residential fabric. You're right, should, should this not be approved, and you can ask the owner what he would do, but my guess is there would be some kind of retail or convenience use there. I'm not sure that's a good thing for the neighborhood. We think we're proposing something that is of great advantage and we do think the site presents substantial hardship. This is a pretty unique,

uniquely shaped lot with significant Zoning challenges that make it we think unique and appropriate for hardship.

CONSTANTINE ALEXANDER: Thank you.

Any questions from members of the Board before I open it up to public testimony? None?

(No Response.)

CONSTANTINE ALEXANDER: Is there anyone here wishing to be heard on this matter?

Sir, give your name and address to the stenographer.

MARTIN JUKOVSKY: Martin Jukovsky, J-u-k-o-v-s-k-y. I live at 220 which is straight across the street. And I -- it's a fine looking building that you're proposing. I had some questions.

Are all of the parking spaces

accounted for?

ATTORNEY ANTHONY GALLUCCIO: They are.

MARTIN JUKOVSKY: So it won't have impact on the parking or short supply on Eliot Street?

ATTORNEY ANTHONY GALLUCCIO: It complies with the one to one requirement.

CONSTANTINE ALEXANDER: If some owner of a unit has two cars, as a family, the second car will not have an underground parking space? But he's absolutely correct. The Zoning only requires one parking space per unit and this project does have that.

MARTIN JUKOVSKY: And right now --

JAI KHALSA: And they're small units.

CONSTANTINE ALEXANDER: Two

bedrooms.

JAI KHALSA: Two-bedroom units.

MARTIN JUKOVSKY: There's ex-gas station. There is environmental questions, the tanks under the ground, at least I don't know how many tanks, and what's the timetable for getting -- excavating all of that, getting rid of the tanks and cleaning up the area?

ATTORNEY ANTHONY GALLUCCIO: So thank you for that question. We -- we're fortunate the site has had monitoring wells on it for a number of years. We did some additional testing. There's no reportable chemicals that would have to be reported. But I think --

JAI KHALSA: I can answer it from a construction point of view. If we are to be granted approval, we would have

about three, four months of drawing ahead of us, three months, and then permitting process in Cambridge is somewhat cumbersome right now in terms of Building Permits. So that's gonna take a number of months throughout all the departments to get there. So you're talking maybe six months down the road before you can break ground. Six, seven months down the road.

ATTORNEY ANTHONY GALLUCCIO: The burden is on the owner to remove the tanks and that's why I wanted to allow the representative for the owner just to speak to that. Given it's a gas station, we're unusually comfortable with this site given the amount of testing that's gone on. And so that's good news, but you can never be sure.

Brendan, do you want to just speak

to that?

BRENDAN NOONAN: My name is Brendan Noonan, N-o-o-n-a-n and I represent Carl Olson. I apologize for not introducing Carl. I didn't see Carl sitting there before the meeting. He's the longtime owner of the property.

Part of the agreement is that the seller would be responsible for removing the tanks. When the tanks were installed, they were state-of-the-art double hull tanks at the time. They were monitoring equipment that was put in at the bottom of the tanks. They've been tested. The seller had them tested about a year ago, and then the buyer also had them tested last fall. Fortunately they came back, everything was fine. The tanks will be pulled in short order.

CONSTANTINE ALEXANDER: Outside of the Zoning, I mean there are many legal regulations relating to removal of standard storage tanks. And also I assume there's going to be financing involved. And the banks are not going to loan money unless they're absolutely comfortable that there are no environmental issues. It's not technically a Zoning issue, but there are certainly a lot of checks and balances with regard to this. People are not allowed to build residential units, or any kind of units on top of disspoiled (sic) land.

MARTIN JUKOVSKY: Yeah.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, our hardship argument is not an economic one. It's based on the shape of the lot. I would add, though, that the

removal of tanks, the precautions that go into that do add to the challenge here, you know, for the community to get this site operating again we believe appropriately as a residential site. There are some challenges that are unique to a gas station site. So the unit utilizing as much of the FAR as possible goes into that economic calculation.

BRENDAN NOONAN: Mr. Chair, just on the environmental, it's not Zoning. There will be an LSP official licensed site professional. A lot of oversight is undertaken.

CONSTANTINE ALEXANDER: I'm aware of that.

BRENDAN NOONAN: Just to respond to that question.

CONSTANTINE ALEXANDER: Thank you.

Is there anyone else who wishes to be heard on this matter?

MICHAEL MCKENNA: Sure. I'm Michael McKenna. I live at 232 Broadway and I own the property. I don't know if I have anything specific right now that I'd want to talk about. It's just that I had never heard anything about this. Also my neighbors hadn't heard anything about it except for the posting of this meeting. So I know that we did have potential concerns, and certainly any input would be one to try to give to the developers. I don't know if it's appropriate for us to have a community meeting at this point and then come back here or what? But....

CONSTANTINE ALEXANDER: Well, I would just point out if we grant relief tonight, we'll grant relief and subject to

whatever conditions we impose. If the neighborhood had other conditions they would like to see imposed, and we might agree with them, we would not be able to impose them. So the only solution if we want to go that route would be to continue this case, allow the neighborhood to meet with the developer, and then you come back with your recommendation and a request for conditions. That's one possibility. The other is we take a vote tonight. Again, if we grant the relief tonight, it will only, the only conditions that he would be legally bound to comply with would be those we impose in the decision.

MICHAEL McKENNA: And I know of three other people who couldn't be here tonight but couldn't make it who wanted to see the plans and discuss it.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, just is to add, you know, I apologize for that. My name is on the sign. I was, you know, didn't get any feedback that anyone had any particular interest. I did run into one of the Area 4 coalition folks who just indicated that there was some interest in the environmental issues, and I assured her that there was no reportable issues to date. I can't, I can -- I am happy to meet with you. I can only ask for your good faith in terms of reasonable issues. Myself, Peter Lee, who is a reputable contractor and builder, and Jai, that again, in good faith we're happy to resolve any questions or concerns. Our hope is that this is on its face a good project and that minor issues could be

resolved and I'm happy to make.

CONSTANTINE ALEXANDER: My comment, and it is a matter of criticism, you should be reaching out to your neighbors first and not waiting for them to come to you. And there's a fellow right behind you and Mr. Firouzbakht and did just that in Dinsmore Court. He reached out, he wrote to everybody, and got their comments before he then had a proposal brought before us.

ATTORNEY ANTHONY GALLUCCIO: We did. That's why I'm a little confused.

CONSTANTINE ALEXANDER: You sent letters out to -- did you make an attempt --

ATTORNEY ANTHONY GALLUCCIO: The city, the city --

CONSTANTINE ALEXANDER: We know

that. Did you do that, before that did you reach out to them?

ATTORNEY ANTHONY GALLUCCIO: You know, so this is -- I guess I would make a comment to the process, in licensing matters and other matters I do those notices which I really like to do. I wasn't sure that it wouldn't appear heavy handed if I did it along with the city. The city's a neutral party. I like doing the notices on a licensing matter because then I can say if you have questions or concerns. In this case the city does the notice, so, you know.

CONSTANTINE ALEXANDER: You're missing my point. I don't want to take too much time on this.

ATTORNEY ANTHONY GALLUCCIO: Yes.

CONSTANTINE ALEXANDER: The point

is it's not the city notice. You write or your clients writes X, city process, we're thinking about developing this property, we'd like to have a neighborhood meeting, here's a suggested place and time and we'll show you our plans and your comments.

ATTORNEY ANTHONY GALLUCCIO: I'm very familiar with community process and organizing --

CONSTANTINE ALEXANDER: None of that was done here.

ATTORNEY ANTHONY GALLUCCIO: -- in my humble view I would suggest in other notice matters, the attorney does do the notice and it allows for that interaction. So I wasn't sure if that was appropriate. But I, I'm happy to meet.

CONSTANTINE ALEXANDER: Well, let

me ask my fellow board members. Do you want to continue this case to allow this meeting that this gentleman, and I guess other neighbors have requested, or do you want to go forward with the case tonight and reach a decision? Which would result, if we granted relief, that everybody would be relying on the good faith of the petitioner to meet reasonable comments or objections for the neighbors.

DOUGLAS MYERS: I would like to hear if you would be -- I would like to hear the representative as a person from the neighborhood give in summary form some of the concerns that he's talking about. Then I would have a better idea of what might -- the Board might be facing.

MICHAEL McKENNA: Sure. Well, people -- the neighbors that I've spoken

with thought a mixed use site would be most desirable. Besides open space itself, which is more of an issue of the city buying park lanes.

But another thing was just the size. In looking at the plans, you know, it's really occupying every inch it can. Which, you know, it's their property, but it's, it may be similar to parts of the neighborhood, but you didn't see the photograph of the other side of the street where I live which is they're houses, they're not abutted up against the sidewalk and, you know, they're not condo-style buildings. And, you know, I don't -- I'm afraid I just have to put in a standing objection until I allow my neighbors to talk with you.

JAI KHALSA: I would just like to

offer to the Board that I've done a couple hundred units with this developer. We do two to three thousand units a year. But over the number of years recently we've done quite a few projects with him in Cambridge and Somerville. We've done a large project with him on the Cambridge Lumber site which was 20 units. And Mr. Lee has always been very pro-active with neighbors, accommodating to neighbors' interests, and desires on this project. More accommodating than I would personally be or recommend to him necessarily. But he's been extremely accommodating and just a good guy to work with in terms of working with abutters. So he's always gone the extra mile.

MICHAEL McKENNA: I would expect the process to go well, but, you know,

like I say, I live across the street and nobody knocked on the door, put anything in my mailbox. And like you said, it was posted as a notice but this is the forum I have to interact with, you now.

ATTORNEY ANTHONY GALLUCCIO: Did you receive notice of the meeting from the city?

MICHAEL McKENNA: I happened to walk by and see the sign.

ATTORNEY ANTHONY GALLUCCIO: Are you a landowner?

MICHAEL McKENNA: Yes. I'm not a direct abutter, but I'm extremely close to the property.

ATTORNEY ANTHONY GALLUCCIO: The city does those notices.

CONSTANTINE ALEXANDER: Well, the city is only concerned with abutters and

abutters to abutters within 300 feet.
He's in the neighborhood, he may have an interest, but he's not legally entitled to get the notice in the mail.

ATTORNEY ANTHONY GALLUCCIO: I support --

CONSTANTINE ALEXANDER: -- which is why you should have --

ATTORNEY ANTHONY GALLUCCIO: I support --

CONSTANTINE ALEXANDER: -- the neighborhood meeting before you come down before us.

Anyway, Ma'am, you wanted to speak.

PAT JUKOVSKY: Pat Jukovsky. I live at 220 Broadway right across the street from the former gas station, and I don't think it's a question of the reputable nature of the developers and so

on. I haven't played trust me, trust me, since I was 17, I think you need some neighborhood input. I think I'm worried about dust, construction noise. When they did road repairs in the stretch of Broadway, in front of our house our house shook. I want to know if there's going to be significant impact in noise, dust, construction, and perhaps structural damage to old houses. We have, we live right across the street, and it's all -- our street is -- we're the last residential block going towards Boston, but there are quite a few houses there and it's a residential. I don't object to residential use of it, but I want to know what the impact of a building that sounds like it's taller than the --

CONSTANTINE ALEXANDER: There's

going to be dust and noise in any construction.

PAT JUKOVSKY: How severe the impact may be on the buildings that are 20 feet away. I just think the idea of community input is a good idea.

CONSTANTINE ALEXANDER: Thank you.

PAT JUKOVSKY: And if it's approved tonight they don't have any --

CONSTANTINE ALEXANDER: It's a trust me approach as you put it.

PAT JUKOVSKY: And I don't mean that in a harsh way.

CONSTANTINE ALEXANDER: I don't either. I point out if we grant relief tonight, the only thing he's bound by are the -- he's got to comply with the plans he's given us and whatever conditions, if any, we may impose. So everything else

beyond that is what you might call trust me.

ATTORNEY ANTHONY GALLUCCIO: And standing city regulations that relate to construction, noise, which involve hours of operation, dust control, and an array of other matters that are as firm as anyone in the country has. So there are some standing rules in place.

CONSTANTINE ALEXANDER: Right.

CARL OLSON: One thing I might say --

CONSTANTINE ALEXANDER: Give your name.

CARL OLSON: Carl Olson and I am the owner of the property as we speak. And whether you're aware or not, it is the last full service gas station in the Commonwealth of Massachusetts. And I

might add for 20 years I gave free air out there.

JAMES MONTEVERDE: I stopped there. You were the only one.

CAROL OLSON: I was for many, many years, that compressor ran all night.

I think I want, I want the neighborhood to be right, too. And as a matter of fact, I asked Mr. Lee -- I had him on the phone, I could put a plaque up there stating that it was the last full service gas station in Massachusetts. Which is sad. I believe you shouldn't be self-serve. And I passed the law whereas I don't think you should have to pump your own gas. I also, as you for the great Tip O'Neill and John Campbell and what have you, we passed what is called a franchise law in this great state also. And me and

my group of guys that owned gas stations, also passed that law in Massachusetts. And they also passed the Clean Air Act. So I did a lot of work to make the environment better. And when they said I put tanks in, I did. I put monitoring wells in so you could check them, and there's double wall piping in it, and I put the best that I could put in when I put the new tanks in. Which still has some more life in them, but economics, the price of gasoline gets you out of business, it just does. You can't compete. And, you know, I'm concerned about the neighborhood, too. I've been there a lot of years. In fact, I was thinking of talking to Mr. Lee, maybe he could put a compressor in there so people would have air for their bikes. I mean --

JAI KHALSA: Right next to the plaque.

CARL OLSON: Next to the plaque, correct. Not only that, one thing about that gas station which you're probably not aware of, had to have -- because of the way it's situated, in any given week we had at least 30 people coming in and asking directions. And just to get you just so you know, it wasn't the fact they asked directions, they pulled up to the pump, buy nothing and make us walk out there because we're full service, "Can you tell me where Prospect Street is?" You know, you would think they'd pull up to the office, but they didn't, you know. Well, some did that's for sure.

I am concerned about Cambridge. I think Cambridge is a great city. And I

also volunteered at Rindge and Latin. My automotive -- I fixed a lot of cars out on Broadway. A lot of air hoses, did a lot of oil changes. And I want the project to look good. That's what I want. And hopefully I can get a picture of what it's supposed to -- gonna look like.

CONSTANTINE ALEXANDER: Just happen to have one.

TIMOTHY HUGHES: There's a whole set of plans.

CARL OLSON: Well, as you know, originally when Paluski put the gas station in, it was from 209 to 221, so it encompassed a lot of numbers on Broadway. And I vaguely remember what the building looked like, but I think it looked something like this.

CONSTANTINE ALEXANDER: Thank you,

sir.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, I would be happy to move for -- to agree to a continuance on -- I'm disappointed in my own outreach effort. We -- it's better for everyone that they get to know the folks involved here and ask those questions. I do just want to make sure, I know there's at least one member of the public that may not be able to come back again, so if we could finish testimony before we continue, but we're happy to do that.

CONSTANTINE ALEXANDER: We'll finish testimony and then I'm not sure we need to continue this case. But it's up to the Board. I have my own personal view on that, but I'll get to that in a second. Who is this person you want to speak?

ATTORNEY ANTHONY GALLUCCIO: I just wanted to make sure everyone had a chance to speak.

MICHAEL MARTINS: Michael Martins, M-a-r-t-i-n-s. And I own the building at 223-225 Broadway right next-door to the gas station. And I just want to say that I mean, like, I just got this notice the other day, so I mean I agree with her, this woman here, you know, we should have a, you know, neighborhood meeting, you know, and I'd rather see a building go up than commercial because there's already a convenience store there, there's Dunkin' Donuts. I don't think we need anymore, you know, commercial space there because, you know, parking is not the greatest in that area people would know.

CONSTANTINE ALEXANDER: Okay.

Thank you.

Anyone else?

(No Response.)

CONSTANTINE ALEXANDER: There appears no one else wishes to be heard in this matter.

Oh, I'm sorry, sir.

SYED SHAHIDULLAH: Syed Shahidullah. First name S-y-e-d. Last name S-h-a-h-i-d-u-l-l-a-h.

I have business across the street from the gas station, and first of all, I agree with him, plus it's my comments, I think it's better to have business and residential both, not only residential.

CONSTANTINE ALEXANDER: Okay.

SYED SHAHIDULLAH: And then he said I want the neighborhood need to talk before they go forward.

CONSTANTINE ALEXANDER: Thank you for taking the time to come down and give us your views.

I think that's it. People have comments.

Does the Board want to continue this case? If we do, it will be a case heard. So it would have to be at a time when all five of us can come back. Or whether we've heard enough to take a vote tonight on the basis that we don't believe that continuing the case will serve any public benefit.

BRENDAN SULLIVAN: Let me give a couple of thoughts.

No. 1, when I first looked at this, I thought it was way too much. After listening to some of the testimony, I have -- I feel that it is a nice

transition from the residential to that lower Broadway Kendall Square area. I would not like to see commercial go there. I would not like to see a convenience store or a small commercial building, industrial building, lab or whatever it may be. I think it probably should be, because it is probably a nice transition from the residential area to that Kendall Square gateway, but I think I would like to see a little bit softer to the building, a little bit of softening to the front of the building, sort of like the front of the ship there, if you will, the bow of the ship. And it's really that sixth unit. Now the building itself and the amount of land that it covers is not inconsistent with that whole area of the city. You can drive up and down the

streets and see all of that and see the house is fairly -- from lot line to lot line. But at some point the Community Development Planning Board and the ultimate best and brightest, the City Council, former City Councillors, current City Councillors, have voted this book in which says that that is not a good idea to have all the houses, lot line to lot line, and to fill as much of the land as possible. And that's why we're bound by setbacks and so on and so forth.

In a perfect world, and I don't mean to reinvent the wheel here, I wonder if that sixth unit is really a deal breaker.

Now I would say the developer would say yeah, it is, but if that sixth unit were not there or if there was a step down, a little softening of the transition

from the residential, the back, that back street to that very prominent front.

CONSTANTINE ALEXANDER: Let me -- before you respond, this is an argument I think in terms of continuing the case to let you reconsider, having heard Mr. Sullivan's comments, reconsider your plans the same time you hear the input from the neighbors at a neighborhood meeting. I think that's what you're suggesting.

BRENDAN SULLIVAN: Well, I'm just throwing my thoughts out.

DOUGLAS MYERS: I think Mr. Sullivan's thoughts are extremely helpful, and it might be helpful to everybody and those Board members who wanted to express thoughts at this point and take stock of the situation and decide

how to proceed. I hate to admit it, but Mr. Sullivan anticipated my thoughts completely and did my thinking for me. I would just say that my only note that I had written down here was that I thought six units was dense. And that doesn't mean I would refuse to approve six units under all circumstances, but I can only say in the interest of the economy of time that I support completely Mr. Sullivan's thinking, and I support his thoughts about the number of six units, five units as opposed to six.

CONSTANTINE ALEXANDER: Any other members want to express views?

JAMES MONTEVERDE: I'm not sure between the five or six, and I'd be happy to see any exploration in some way as you mentioned to try to step it down or just

transition it out to that corner might help.

CONSTANTINE ALEXANDER: Anything you want to say?

TIMOTHY HUGHES: Not really. I mean, the design stuff has been well spoken to, but I do think that there has to be some community outreach. That's the way we do business. You know?

CONSTANTINE ALEXANDER: So between the need for community outreach and the need given the comments you've heard to maybe reconsider the design of the structure, maybe -- to reconsider, you may decide not to change it, that's your call. You heard Mr. Sullivan's and Mr. Myers' comments. I think it's appropriate to continue this case as a case -- when I say case heard, what this means, I think I

said before, but I'm going to repeat it. When we reconvene, it has to be a time when all five of us can be present.

ATTORNEY ANTHONY GALLUCCIO:

Mr. Chair, can you direct me as to what appropriate neighborhood group you refer to so I can be clear on who, just as the -- do you have a particular group that --

MICHAEL McKENNA: No, not a group per se. It's neighbors that I talked to. And I would suggest you just knock on the door.

ATTORNEY ANTHONY GALLUCCIO: So I'll find a location and call a time.

CONSTANTINE ALEXANDER: I would suggest that you try to --

TIMOTHY HUGHES: Give out your business cards tonight.

ATTORNEY ANTHONY GALLUCCIO: I'm happy to.

CONSTANTINE ALEXANDER: Put together a group or an ad or something more extensive to use to mail -- how much more extensive, you'll have to do it. You can also tack some things on telephone poles, too.

DOUGLAS MYERS: Put a notice in Dunkin' Donuts.

CONSTANTINE ALEXANDER: There are ways to getting the word out.

JAI KHALSA: You get more attendance if you bring donuts.

ATTORNEY ANTHONY GALLUCCIO: I haven't had difficulty getting attention in the past, so I think I will be able to accomplish that, Mr. Chair.

CONSTANTINE ALEXANDER: Okay. And

you'll have to find a suitable place for people who do show up.

How much time do you think you'll need to reach out to the community and reconsider the plans, too?

ATTORNEY ANTHONY GALLUCCIO: So, maybe one month. So skip a meeting and come back and that would be adequate.

CONSTANTINE ALEXANDER: That's your --

ATTORNEY ANTHONY GALLUCCIO: A month.

CONSTANTINE ALEXANDER: You think you can reach out to the neighborhood in a month?

SEAN O'GRADY: You don't have availability until April 30th.

CONSTANTINE ALEXANDER: Can everybody be here on April 30th being the

five of us? I can.

JAMES MONTEVERDE: Yes.

DOUGLAS MYERS: That's fine.

CONSTANTINE ALEXANDER: Okay. Let me explain before I make the formal motion to those in the audience. What we're going to do is we're not going to decide the case tonight. We're going to hear -- we're going to come back on April 30th, and you're all welcome to come back. We'll start at seven o'clock the next time. In the meantime the petitioner is going to set up a meeting with the neighborhood, perhaps with revised or modified plans, perhaps not. That's his call. And you'll have a chance to give your views, your approval, your opposition, what you would like changed, and they will presumably take that into

account. They may reflect that or not. But, anyway, they'll come back with new plans, presumably, on April 30th, and then at that time presumably we'll make a decision.

MICHAEL MARTINS: That means we won't get notified from the city?

CONSTANTINE ALEXANDER: No more. No, you'll not get formally notified from the city. Mr. Galluccio said what he's going to do in one fashion or another is to get notice out.

DOUGLAS MYERS: And he will change his sign.

CONSTANTINE ALEXANDER: We're going to change the posting sign. That will get changed. I'll get to that in a second. And also by word of mouth. You people can talk to your neighbors and tell

them, hey, there's a meeting coming up, it will be good to attend. Or at least tell me what you want me to express on your behalf.

ATTORNEY ANTHONY GALLUCCIO: And for the record, Mr. Chair, my law office is at 1498 Cambridge Street and my last name is Galluccio. And I can be reached at any time there.

CONSTANTINE ALEXANDER: The people here --

ATTORNEY ANTHONY GALLUCCIO: Yeah, no, I just want to make sure they know.

CONSTANTINE ALEXANDER: I understand.

The Chair moves that this case be continued as a case heard until seven p.m. on April 30th subject to the following conditions:

That one, that the petitioner signs a waiver of a time for decision. That's required to do, otherwise we can't do it.

Two, that the posting sign that's up there now be modified, it can be done by a magic marker, to reflect the new date, April 26th, and the new time seven p.m.

MICHAEL MARTINS: April 30th.

CONSTANTINE ALEXANDER: I'm sorry, April 30th. I apologize. Thank you.

And that the sign be maintained for the 14 days that are required under our Ordinance.

And lastly, to the extent that the petitioner at this meeting wants to submit plans or different than the ones you brought with you tonight, that these new plans, and same with the landscaping plan, too, by the way, this is a landscaping

plan, that these be in our files no later than five p.m. on the Monday before April 30th.

The purpose of that, sir, and those of you in the audience, is that you'll have an opportunity, you'll have an opportunity at the public -- at the meeting he's going to organize. But you'll further have an opportunity after five p.m. on the Monday before April 30th to go to the Inspectional Services Department and see exactly what it is we're going to be talking about on April 30. Okay?

So, for example, if --

MARTIN JUKOVSKY: You'll have a new design and stuff?

CONSTANTINE ALEXANDER: It may. That's their call. But the fact of the

matter is that what could happen is you have a meeting, you give comments, you want this, this change, made that change. They say yes or we'll take that into consideration. And then whatever they want to change will be, has to be in our files by five p.m. on the Monday before. So I would suggest to you and any interested neighbor check with the Inspectional Services Department come Tuesday morning and see if there are -- what's been filed and you go down and view them in advance of the hearing, or you can come to the hearing and examine them right here.

MARTIN JUKOVSKY: Like you said tonight they only changed a few things on.

CONSTANTINE ALEXANDER: Yes, only some windows. And that's going to be the

starting point for the meeting. Those, these plans will have the window changes in response to the Planning Board.

MICHAEL MARTINS: Okay.

CONSTANTINE ALEXANDER: So I think I made all three.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

* * * * *

(9:50 p.m.)

(Sitting Members Case #BZA-006135-2015: Constantine Alexander, Timothy Hughes, Brendan Sullivan, Douglas Myers, James Monteverde.)

CONSTANTINE ALEXANDER: The Chair

will call case No. 006135, 2510-2512 Mass. Avenue.

Is there anyone here wishing to be heard on this matter?

MARC RESNICK: My name is Marc Resnick. I'm the owner or one of the owners of the building, and I passed out some pictures already. That's the existing building. And I'll also made a board if anyone wants to see it. Have you seen these?

UNIDENTIFIED SPEAKER: I certainly have. I live right across the street.

MARC RESNICK: I'm the existing owner of the building. When I bought it maybe six months ago. The childhood, you know, it was a used clothing store for, you know, children. They used to have a lot of strollers like lined up in front of

the building. After I purchased it, they moved out shortly thereafter. I've developed another building at 535 Cambridge Street where Boston Dog Store is currently operating. I thought that they might -- this building might be a good use for them as well. So I provided you with pictures of the current building as well as pictures of the existing store. So they've been doing very well in the community. They're actually expanding. Everybody is happy. Everybody seems to be happy with them as well. We reached out to the North Cambridge Stabilization Committee, had a public meeting at their -- another dog center, like, over in North Cambridge. So they seemed to be pretty favorable toward that. We didn't get any kind of feedback about anyone

having any kind of, you know, non-desirable interest in this. We think that it will suit the neighborhood. That it's absolutely certainly for local people who are in the neighborhood. It's a service business. No one's going to drive across the country to drop their dog off for the afternoon, and so we thought this would be the right kind of thing. This is obviously a service business before. It's retail on the first floor. This building is specifically well suited because the existing commercial space protrudes in front of the existing building. So there's actually going to be no people living above the dogs.

CONSTANTINE ALEXANDER: Are there people living to the side and the back of the dogs?

MARC RESNICK: Yes. There's actually a barrier to the first floor. But this in a way protrudes out in front.

We did a little bit of extra soundproofing and insulation related to the dog store at the other Cambridge building to accommodate for that.

KENT LEUNG: (Inaudible).

THE STENOGRAPHER: I need to get people's names if you're going to speak.

KENT LEUNG: Kent Leung,
L-e-u-n-g.

CONSTANTINE ALEXANDER: You've anticipated a question that I was going to ask you. You're going to put some soundproofing to minimize potential noise?

MARC RESNICK: Absolutely.

CONSTANTINE ALEXANDER: What about odors? You've got people

living -- residents, single-family or maybe two families all around you. What about -- maybe there are no odors, but one issue that would come to my mind is having animals on the property all the time.

MARC RESNICK: You can address that.

KENT LEUNG: So we're actually, as far as we know, we're the only dog day care that walks dogs. And so we do that free of charge just because we believe that dogs, as my personal philosophy, shouldn't go to the bathroom inside. I think every dog day care within at least ten square miles or more, their dogs defecate, urinate inside. But for us we dispose of the bags on a regular basis with poop bags and dispose them.

CONSTANTINE ALEXANDER: Your dogs

will defecate and urinate on the property, but you'll remove their waste promptly through these bags, is that what you're saying.

KENT LEUNG: We walk them out --

CONSTANTINE ALEXANDER: Yes, but you can't control when they --

KENT LEUNG: But if they do have an accident, I will take care of that promptly. So in many ways we actually exceed every state and national standard in terms of dog day care. In terms of the ratio of staff to dogs as well as to the qualification. So, for example, we -- our staff consists of veterinary technicians, veterinary assistants. And we have a much better ratio. As well as our screening processes considered by most the strictest in the United States. So it's publicly

stated on our website that we only accept five to ten percent of the applicants.

The dogs have to be social prior to acceptance. We evaluate them through a three phase 30-day evaluation to determine if they are --

CONSTANTINE ALEXANDER: Like getting into college.

MARC RESNICK: Harder.

KENT LEUNG: Very similar.

So if there are any additional questions?

CONSTANTINE ALEXANDER: Anything more you want to present?

KENT LEUNG: Well, we're really well received in the community. Many of the -- you know, one of the reasons why we thought about this space and Marc also reached out to us, is that a lot of our

clients are actually from North Cambridge. This -- the area around here. So a lot of them are currently utilizing a pet taxi service, which is quite popular, and we wanted -- this would be a perfect mix because they can just walk to the store and drop off their dog instead. Instead of making the trip all the way to East Cambridge. So depending on how driving on Cambridge Street is, they can sometimes take you a little bit of time, let's put it that way.

TIMOTHY HUGHES: You can walk the dog faster than you can drive on Cambridge Street sometimes.

BRENDAN SULLIVAN: Now, you're going to occupy the entire first floor?

KENT LEUNG: Yes.

MARC RESNICK: Not the first floor

of the whole building. Just the first floor of the front.

BRENDAN SULLIVAN: The commercial. Before that the lady used to have dollhouses there before Childhood Days or whatever it is.

Now what about the garage? Is that part of your --

MARC RESNICK: Yes.

BRENDAN SULLIVAN: You're occupying the garage as well?

KENT LEUNG: Yes.

BRENDAN SULLIVAN: What's going to happen in the garage?

KENT LEUNG: I was thinking of running occasional dog training sessions there. Part of the idea is I want to train therapy dogs. When we met with the North Cambridge Stabilization Neighborhood

Group, they mentioned something that was quite interesting. They mentioned it would be a good idea if we have our dogs -- we had therapy dogs visit them on their, you know, during different times of the week that would be prearranged with them. And I thought that would be a great part of our mission, is to train therapy dogs.

BRENDAN SULLIVAN: Will the garage doors remain as is so there's a side entrance?

KENT LEUNG: There is one side entrance yes.

BRENDAN SULLIVAN: Okay. So you're basically going to leave the garage doors as is. And so as far as the therapy dogs, that would be sort of a separate confined space which is probably more

appropriate for that type of dog.

KENT LEUNG: Yes.

BRENDAN SULLIVAN: And so that space would be dedicated to that or possibly some other kind of training or something like that?

KENT LEUNG: Yeah.

BRENDAN SULLIVAN: That space will be utilized. And then the first floor which is now, whatever it is, and, again, I always remembered it as sort of a dollhouse thing, that's where you're going to be occupying the dog care?

KENT LEUNG: Yes.

CONSTANTINE ALEXANDER: I thought you said in your application the garage would be leased for a dog farmer's market?

KENT LEUNG: Yes. That's only on weekends, though, potentially. But it

doesn't --

CONSTANTINE ALEXANDER: You haven't got that. On weekends you'll be doing something else with the garage?

KENT LEUNG: Depending on the weather. It's like the wintertime, we're probably not going to do it. But I think if it's during the summertime, it would be nice to have -- the whole concept is local. So even items within our store, in our Cambridge Street address, a lot of the dog clothes and dog collars and dog leashes, they're made by local Cantabrigians, so that's part of our idea, that if it's summertime or springtime, we could have like a get together of people, the doors are open, the garage doors are open, the people come in.

CONSTANTINE ALEXANDER: Like a

garage sale.

KENT LEUNG: Like a garage sale, but a little bit more, you know, farmer's market scale a little bit.

BRENDAN SULLIVAN: Literally and figuratively.

DOUGLAS MYERS: To follow up on Mr. Sullivan's question, the garage door that fronts the street is going to remain closed?

CONSTANTINE ALEXANDER: Except when they have the market.

DOUGLAS MYERS: It will be open for the market?

KENT LEUNG: I think so. If not, you know, it comes -- at that point there are no dogs. It's just people coming in and --

DOUGLAS MYERS: It's not going to

be used for automotive access?

KENT LEUNG: No.

MARC RESNICK: It's currently used by a used furniture -- like a furniture operation. And he takes -- he does open the doors on weekends and spreads it all out.

CONSTANTINE ALEXANDER: I went to see this property. It was a Saturday. And it was, I was taken aback actually.

MARC RESNICK: He's packed with stuff right now. And that's the operation that was there previously. Is --

KENT LEUNG: That's actually how we got the idea. When I heard about him opening up the doors, oh, no one's ever done like, you know, a dog farmer's market type of idea.

BRENDAN SULLIVAN: So, Marc, what

are your plans for the building?

Obviously first floor here, but the whole general building?

MARC RESNICK: Well, currently -- well, part of the thing is that if you notice on the front of the building, the right-hand side, starting from where the childhood day sign is, that's going to be the customer -- human customer side. Everything to the left-hand side is going to be for dogs only.

BRENDAN SULLIVAN: Yes.

MARC RESNICK: And so we're actually, if you notice it's not handicap accessible on that side. So we're gonna -- the main thing that we're doing on this unit is to lower the floor. We're going to rip it out and lower it down like

a foot or two so that it will be on the grade of the street. And for the rest of the building, we're currently renovating one of the units that was in bad condition. And the top floor of the unit as well needs a pretty serious --

BRENDAN SULLIVAN: So there's two units.

MARC RESNICK: That are in poor condition, real tough.

BRENDAN SULLIVAN: Two units above the retail.

MARC RESNICK: Two units up above. And then one of the things we purposely showed a picture of -- if you go down a couple. The side of the building, which we consider the worst, which would be that side. We're going to be placing a window that similar look to that so that the side

of the building would no longer look like the side of a building.

BRENDAN SULLIVAN: So the front the three clear lights in the front are just going to remain somewhat --

MARC RESNICK: Correct. We'll improve the signage and lighting. You know, if there's a sign and then we'll make the sign. And the window on the side is the idea to sort of give it a more uniform look.

BRENDAN SULLIVAN: And a new paint job overall.

MARC RESNICK: Yeah, yeah. As soon as spring comes and we design the first floor, then we'll clean-up the whole place.

BRENDAN SULLIVAN: Okay.

KENT LEUNG: And I think it will

be good for the community because currently if you've driven by, it's sort an eyesore. The way it's falling apart, it's decrepit. So by adding, you know, this to the community I think it would help out a lot. In fact, the reason we thought about this to begin with, is we had overwhelming response requesting us to be in that area. But due to -- there are not being any vacancy and the rents, the rents, rents in Cambridge are a bit high. So I didn't want to invest in an area that I couldn't, you know, really feel a part of. So luckily we know Marc because he, you know, was our landlord on the Cambridge Street address.

CONSTANTINE ALEXANDER: Right.

MARC RESNICK: Ken has actually purchased his unit at the other location

now. He's actually an owner/occupant at this point.

CONSTANTINE ALEXANDER: He purchased the commercial unit?

MARC RESNICK: He purchased the commercial unit. So I'm no longer his landlord. Actually, he's his own landlord now. He has the same idea here as well. That he intends to lease arranged -- the same kind of lease we had before. Lease with option to purchase. Three years down the road he would buy the unit himself and become an owner in the neighborhood.

CHRISTINE YOUNG: We love Cambridge and it really is home.

CONSTANTINE ALEXANDER: Other comments or questions from members of the Board at this point?

(No Response.)

CONSTANTINE ALEXANDER: Ma'am, you want to be heard?

JULIA BISHOP: I have something I'd like to read from the neighbors and I have some questions.

CONSTANTINE ALEXANDER: Sure.

THE STENOGRAPHER: And your name?

JULIA BISHOP: Julia Bishop. I live out by Cottage Park Ave. This is the abutting street. I'm just going to read it. I do much better in front of fifth graders.

Okay, so this is from the neighbors of Cottage Park Ave. Bob Steer (phonetic), Debra Steer, Bill Clark, Virginia Fox, Jonathan Milman (phonetic), Julia Bishop. I live at 9. Bob Steer and Debra Steer live at 13, and Bill and Virginia Fox live at, I think it's 15-17.

CONSTANTINE ALEXANDER: And
Cottage Park Avenue is the street that --

JULIA BISHOP: It's the side
street. The garage side.

CONSTANTINE ALEXANDER: It's the
street on the side of the garage. Got it.

JULIA BISHOP: And I received a
notice on this. We would like to share
our concerns about the requests for a
Special Permit for 2510-2512 Massachusetts
Avenue. Based on our understanding of the
existing Zoning, Business A-2 requires a
Special Permit because live animals are
involved. Relief for parking spaces of
which there are not enough, is based on
the existing Zoning. Given these factors,
we oppose such relief. We're extremely
concerned about the nature of pet care and
related services. And I could not make it

to the meeting at the North Cambridge Stabilization and neither did two of the other people on here, they're both elderly, and they could not make it. So we did not know the nature of the services. I know a little bit more now.

So we said we had no way of knowing about the background or reliability of the proposed tenant's history with the care of live animals. We're concerned about dogs being kenneled overnight. That sounds like that is not an issue.

KENT LEUNG: No.

JULIA BISHOP: Or for lengthy periods, disposal of animal waste as well as noise. We have oppose the kennel tents. So I guess that's a moot point.

Once again, parking becomes an issue. It's our understanding that the

building includes at least three residential units that will need parking spaces. The owner's employees and customers will need somewhere to park. I actually don't agree with this idea that people are gonna just walk their dog and not drive cars. I find, that's one of those promises they were talking about in the last case, that you can promise that people aren't gonna be driving and parking on the street and walking their dogs, but we can't guarantee that that's.

KENT LEUNG: But based upon --

JULIA BISHOP: You can't guarantee that's actually going to happen.

KENT LEUNG: There are very few things you can guarantee anyways.

JULIA BISHOP: That's right. I would have to question the reliability.

KENT LEUNG: But based upon, like, our Cambridge Street address and the surveys done in local neighborhoods of this population --

JULIA BISHOP: I don't know anything about the surveys.

KENT LEUNG: Okay.

JULIA BISHOP: I'm just saying it's one of those -- it sounds great, but in actuality people are rushing and they can't walk and they need to get their dog there, there's going to be parking issues. Mass. Ave. is really busy during rush hour commute times, and there's very little parking on Cottage Park Ave. And I know you're aware, Mr. Resnick, given your other buildings on the street.

The business tenants at this location always have generated the need

for on-street parking. And so we know that's a reality. Because they're limited meter parking and resident parking on Massachusetts Ave., Cottage Park Ave. is used. There are approximately 14 on-street parking spaces, and some of those are already taken up by tenants of two-family buildings on Mass. Avenue. We have a number of two-family units who can't park on Mass. Ave. And those tenants, they park on Cottage Park Ave. consistently, regularly. Cottage Park Avenue has absorbed traffic for 20 plus cars associated with the recently developed Emerson Lofts Condominium building which was Mr. Resnick's project. While it's true that the Emerson Loft has a parking lot for its tenants, which we're thrilled about, parking has overflowed on

to the street. And regularly at least half of the 14 available spaces down at the end of the street are overflow cars for the Emerson Loft, which has a parking lot of 22 spaces I think. So we're already dealing with the overflow from that. The Fawcett property, Tyler Green is now being developed, and that will generate 30 plus more cars coming up and down Cottage Park Avenue and also looking for overflow parking when they don't want to purchase a parking spot, which is not going to be guaranteed to them as part of the price point for the condominium. For the rental units at Fawcett.

So, this quiet, small street is Zoned Residential B on the opposite side, the proposed business -- opposite the proposed business site, and we ask the

Board to consider the impact businesses already had on our small neighborhood and deny the Special Permit. The parking is a major deal and nobody can guarantee that your employees, customers, whomever, are going to walk or walk dogs. And this street has six houses on it.

That's -- you went down the street recently, you saw it. It's got a dog leg. It's got six houses. It's a small street with factory turned into condos at the end. It's, you know, it's not a big street and it's going to absorb. That street's the one that's gonna absorb any extra. Mass. Ave. is already packed. So --

CONSTANTINE ALEXANDER: The problem I feel is this is an area, this property is zoned for business.

JULIA BISHOP: I know it is.

CONSTANTINE ALEXANDER:

Unfortunately your Cottage Park Avenue is residentially zoned. And whenever a residential area abuts a business district, it has parking problems or parking issues.

JULIA BISHOP: Yes.

CONSTANTINE ALEXANDER: It would seem to me that we should take the parking issues into consideration only if the nature of the proposed use will really have a lot more parking issue -- create a lot more parking need than other commercial uses. And I, at least I don't get a sense of that. I mean, you got to --

JULIA BISHOP: Well, if you're having people come regularly and drop

animals off --

CONSTANTINE ALEXANDER: Well, they park.

JULIA BISHOP: (Inaudible).

CONSTANTINE ALEXANDER:
(Inaudible).

THE STENOGRAPHER: Please speak one at a time.

CONSTANTINE ALEXANDER: Why don't you comment on that.

MARC RESNICK: And that's what I hoping to mention. So as I was just going to say, from their other experience already, they had no parking spaces at 535 Cambridge Street. You know, they came back in two years later for review for a permitted license. They were only granted a two year license. As far as I know, there was no opposition for the neighbors

from refuse and disposal or cleanli -- you know, odors and such and noise and those issues, as well as no issues with the parking. And because they've developed their own system of very carefully, you know, picking their dogs by person to person and by using their own special pet taxi service, we really think that, there's no real reason to stay there. It's a drop off service. And I did read your letter so there are no overnight --

JULIA BISHOP: Yes, they made that clear.

MARC RESNICK: There's no -- it's not a kennel. There's none of that kind of unattended. Only daytime attended. I respect that other issue of dogs overnight, who knows what might happen.

JULIA BISHOP: Yes, right.

MARC RESNICK: But I think here like what you said, that this, you know, if it was a regular retail operation, there would be customers that would go inside and spend time shopping, and for 10 or 20 minutes. And in this kind of location, it's three to five minutes in and out the door.

CONSTANTINE ALEXANDER: Do you charge for your pet taxi service?

KENT LEUNG: We charge actually the lowest fee --

CONSTANTINE ALEXANDER: You charge?

KENT LEUNG: Yeah, but we don't collect -- we don't collect any -- the money that's collected goes directly to the taxi person who makes zero profit off that.

CONSTANTINE ALEXANDER: My only point being, and not a major point is that to the extent that you charge, that incentivizes people not to use it but to drive and --

KENT LEUNG: But I would say that the majority of our clients use our pet taxi service because travelling down Cambridge Street is not, is not an easy task. But even so, like, one thing I can really speak to experience is that, you know, like for our staff members, we actually, for the most part, I don't think we have a single staff member that drives. Even our dog walkers, they all bicycle, you know, all year round even during the wintertime. Although this winter was a little bit more difficult, you know, but the truth is we're a very green company.

And, you know, because of our pet taxi service, and because of the affordability, I would actually say we're probably one of the only businesses where we have the least amount of parking impact. Because how many businesses could say the majority of their clients use a taxi service? You know? And also the majority of clients won't stay there for 20 or 30 minutes. Almost any other business, if it was a restaurant or a cafe, they would take up a ton of parking spaces, and they also wouldn't have a taxi service. So I think because of the dynamics of the system that were traded, both the taxi services and our staff member using bicycles, I think that really won't take up much parking.

CONSTANTINE ALEXANDER: How many staff members do you anticipate having?

KENT LEUNG: Probably two.

CONSTANTINE ALEXANDER: Just two people?

JULIA BISHOP: Can I ask how many dogs? How many dogs are at the facility during the day?

KENT LEUNG: Cambridge Street?

JULIA BISHOP: No.

CONSTANTINE ALEXANDER: No. How many do you anticipate? Range. Give a range.

KENT LEUNG: It's really tough to say. I mean probably 15. 15.

CHRISTINE YOUNG: 15.

KENT LEUNG: 15, 20. Also we have to -- you can't judge by the number of dogs because a three pound Chihuahua is not the same thing as a hundred pound lab. They take up a different amount of space.

So it all depends on -- honestly, we have the strictest day care in the United States, and there's no doubt about that. And we have the only three stage evaluation in North America. So we're very, very strict.

The reason I started the dog day care, if you remember, is my dog got mangled at dog day care over four years ago, and he almost died on his first day of dog day care. And because of that, you know, I've taken a major pay cut and leave from a software business to do this. You know.

CHRISTINE YOUNG: That's why our windows are open. We've got nothing to hide with what we do. You know, we truly love the dogs. And if you ask anyone in the neighborhood, they'll say, you know,

this is like a second home. And that's what we've created. It's a boutique. It's not really dog day care. Like that word -- we're kind of -- we're not really that. We're five to ten percent --

DOUGLAS MYERS: As a neighbor or someone living in the vicinity, I would probably be most concerned that for an hour or two at some point every day there's just going to be a cacophony of barking dogs.

KENT LEUNG: No.

MARK RESNICK: (Inaudible).

DOUGLAS MYERS: Is that the case? How do you keep a lid on it?

CONSTANTINE ALEXANDER: One at a time, please.

KENT LEUNG: If you came into our Cambridge Street address, I could

probably -- you could probably stand in the middle of the day care for an hour and a half to two hours without any barking. You can ask our neighbors about that. And it sounds very difficult to believe, but there have been hundreds, probably thousands of people that have stood on Cambridge Street watching our dogs. Our dogs are heavily, heavily screened. We're -- and also I can sign an Affidavit.

CONSTANTINE ALEXANDER: Not sedated, screened?

KENT LEUNG: Screened, yeah.

JULIA BISHOP: Can I ask another question? Is there a standard in that industry about the ratio of caregivers to dogs?

KENT LEUNG: Yes.

JULIA BISHOP: What is the ratio.

KENT LEUNG: So most -- the ratio is typically like 1 to 27. And our ratio is close to one to nine. So we beat the ratio by three times. And also in addition to that, most of the staff that work at a dog day care, honestly, they're like high school kids or maybe like college students. Our staff has consisted of veterinary technicians and veterinary assistants. We pay more because we believe the quality is -- well, for example, Christine is our director of our company, and she believes so much in our mission she's been volunteering for the company --

CHRISTINE YOUNG: I volunteer my time.

KENT LEUNG: -- since the very beginning. For years and she's there all

the time.

CHRISTINE YOUNG: It's a passion. And, you know, it's truth that we've been doing this now for four years in our Cambridge location, and it just, we love what we do. We're over there talking to people. We stay open later. It's different. Our mission is really purely to educate, but also help, you know, if we could help a dog, you know, change their food, their diet, to be healthier, to extend their life, I mean, their family loves us, our view is very different of, you know, their family member. And, you know, we only want the best for the folks.

JULIA BISHOP: Can I ask a question about this farmer's market in terms of what is your vision there around if you have this open setting on the

weekends in terms of traffic or people coming by and parking? I mean, that seems like you've got that open air thing and then people know about it that on the weekends, that's going to add some traffic to the street.

KENT LEUNG: I don't believe that's necessarily true, because a lot of -- whenever I go to farmer's market. In East Cambridge I actually walk down to Union Square to their farmer's market. I think that a lot of times when you look on a Sunday during the summer or the spring, I think it's, I think if it's a nice day, people will just walk down.

JULIA BISHOP: So that would be a Sunday, too. But do you see the impact to the neighborhood, that operating on a -- so this isn't your storefront, this

is the building that's on Cottage Park, even though it's that side is zoned for business, the rest of it is very residential. So do you see there might be an impact if every Saturday and Sunday --

KENT LEUNG: But I would say if --

JULIA BISHOP: -- there's a business open?

KENT LEUNG: -- if you were to compare it to almost -- I actually don't think you can find a single business that would have less of an impact on traffic besides our business. I mean, if it was any other business, it would create substantially more of a retail usage.

JULIA BISHOP: Well, but that would be a retail usage because you said you're going to be selling items, pet accessories. So I'm just saying if you're

looking at it from -- I mean, the neighborhood knows there's going to be some retail there, there always has been. You know, we've dealt with different retailers in there. I'm just saying that that's -- and the guy that's on Cottage Park Ave., it's only open on Saturday for four, five hours and that's it, he closes.

KENT LEUNG: And we could do something very similar.

JULIA BISHOP: But you're talking every Saturday and Sunday.

KENT LEUNG: No. Like many farmer's market, the plan is if the weather's nice, it might be once a month, it might be once every two months. It depends on something that --

JULIA BISHOP: Would that be part of it? I mean, could that be approved

based on, I mean, you saying it's going to be this many times? Because I'm just saying that there's a neighborhood that's going to be impacted. And, again, come back to the whole thing you can't promise people aren't gonna drive and there's very few parking spaces on that street, and it's a very narrow, small street. So I'm just, I'm talking for the neighborhood that that's increasing the use of that building, that's increasing it because Ron is only open for a couple hours usually on a Saturday. He comes at ten, he's gone by three or four. You're saying hours that would include --

KENT LEUNG: It would be very similar actually. We wouldn't be open any more hours. A farmer's market --

JULIA BISHOP: Well, you're going

to be open maybe another day. The other weekend day. I guess --

KENT LEUNG: I actually said Sundays. On particular Sundays if the weather is good and it depends on -- and it wouldn't operate every week. Every -- it wouldn't operate every Sunday.

JULIA BISHOP: Is that going to be -- does that become part of the overall agreement or plan, that the hours of operation -- like, I don't think I asked --

CONSTANTINE ALEXANDER: We're not going to get into that. And I've been thinking about it listening to you. We're not going to get into the notion of trying to micromanage when the property, business is going to be open.

I think, sir, you have a negative,

you oversell. There's going to be a parking impact if you have a farmer's market. Let's not kid ourselves. The question is how significant will it be? And is it sufficient enough for us not to grant relief or prohibit the marker's market. Personally, I don't think we should go there. You're dealing with the problem of a residential area abutting a business area. I think it's common sense that the type of proposal he's suggesting is not going to create droves of cars zooming in and out.

JULIA BISHOP: Right.

CONSTANTINE ALEXANDER: And leave it at that. That's how I feel.

BRENDAN SULLIVAN: You know, when you first proposed your location down on Cambridge Street, we heard almost the same

exact concerns, and they were very real and legitimate concerns and we approved their Special Permit for a period of two years.

CONSTANTINE ALEXANDER: I know where you're going.

BRENDAN SULLIVAN: Enough said.

CONSTANTINE ALEXANDER: I was going to make the same suggestion to the Board which you've just done. Thank you.

What we could do is we could do it for two years. And he'll have two years' experience of how it works.

JULIA BISHOP: I think the neighborhood would --

CONSTANTINE ALEXANDER: And then you have two years. And on Cambridge Street, as it was pointed out --

JULIA BISHOP: Okay.

CONSTANTINE ALEXANDER: -- SO
there's no opposition and then made it
permanent.

JULIA BISHOP: Okay. I just think
the neighborhood needs to feel like
they're being appreciated.

CONSTANTINE ALEXANDER: I know you
can't speak for the whole neighborhood --

JULIA BISHOP: If I was talking
for the people here that I'm representing,
I think that it, it sounds like you're
going to approve it anyways, I think that
would be a reasonable thing for us. It
would make me feel -- make us and make me
feel like you're aware that we have
concerns, that you can't really promise,
you can't promise. It might have worked
one way in Cambridge, it could be
different here. And I think that would be

enough to make us feel like we were heard
and --

CONSTANTINE ALEXANDER: When we
get to making the motion to grant relief
which we may not --

DOUGLAS MYERS: It may not be as
good as the applicant is saying. It may
not be at bad as you are --

JULIA BISHOP: These are the
extremes. That's our extreme concerns.
That's what I'm bringing to you.

CONSTANTINE ALEXANDER: Okay?

JULIA BISHOP: Okay. Thank you.

CONSTANTINE ALEXANDER: Thank you
for taking the time to come down.

Any other questions from the members
of the Board?

(No Response.)

CONSTANTINE ALEXANDER: Anyone

else wishes to be heard?

(No Response.)

CONSTANTINE ALEXANDER: Apparently not. I'm going to close public testimony. I think we're ready for a motion.

The Chair moves that with respect to the Special Permit being sought we make the following findings:

That a Special Permit is required under our Zoning Ordinance to meet the requirements of our Ordinance.

That traffic generated or patterns of access or egress will not cause congestion, hazard, or substantial change in established neighborhood character.

And with respect to this, there is some question about whether that would be true, but with the condition of a time limit put on the Special Permit that would

allow us to make an actually realistic real time determination as to this item. So I don't think we need to be concerned about it tonight.

That the continued operation or development of adjacent uses will not be adversely affected by what is proposed. And, again, I think the time limit we're talking about speaks to this issue and allows us for tonight at least to allow the project to go forward.

No nuisance or hazard will be created to the detriment of the health, safety, and welfare of the occupant of the proposed use or the citizens of the city.

In this regard in addition to the time limit, I'm going to make a condition that there could be no boarding overnight.

KENT LEUNG: Of course.

CONSTANTINE ALEXANDER: But no boarding of animals overnight. And that you will take reasonable efforts to -- make reasonable steps to minimize any odor impact or health issues that might arise in the neighborhood -- residential neighborhood from the having animals, this number of animals in the facility.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: But nothing more specific than that.

Again, if there are problems, we'll find about it in two years and then we'll deal with it at that time.

KENT LEUNG: Do you need my company name to be attached to the --

CONSTANTINE ALEXANDER: No. Mr. Resnick applied for the relief. So

two years from now he would have to come back and -- or someone. No, I don't need your company name. Thank you anyway.

And that what is being proposed will not impair the integrity of the district or derogate from the intent and purpose of the Ordinance.

On the basis of these findings, the Chair moves that we grant a Special Permit subject to the following conditions:

Special Permit being sought subject to the following conditions:

One, that no animals may be boarded on the premises overnight.

And, two, that the Special Permit will terminate in two years from the date the Special Permit is granted.

And, therefore, if the petitioner wishes to continue to operate the

business, pet care business, you'll have to come back before us and at that point we will take into account any neighborhood complaints, comments, or whatever. And make a decision then as to whether you make it permanent.

KENT LEUNG: Before the two years expires?

CONSTANTINE ALEXANDER: Well, two years from now you'll come back before us.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: The neighbors will get notice.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: If they have issues or comments they want us to know about, they'll come see us.

KENT LEUNG: Okay.

CONSTANTINE ALEXANDER: As you

know, Cambridge Street no one did and we made the Special Permit permanent. Presumably that's what will happen here, but we'll see.

On the basis of these -- I made the motion. All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Special Permit granted for two years.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

CONSTANTINE ALEXANDER: Good luck.

* * * * *

(10:25 p.m.)

(Sitting Members Case #BZA-006158-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006158, 10 Canal Park.

Is there anyone here wishing to be
heard on this matter?

ATTORNEY ANNE REYNOLDS: For the
record, my name is Ann Reynolds, Prince,
Lobel, Tye on behalf of the applicant

Sprint. As you know, Sprint is in the process of upgrading many of their existing sites. In this case Sprint currently operates a facility existing of three antennas on the rooftop of a building at 10 Canal Park. What they're proposing to do tonight is add three new panel antennas, three new remote radio head antennas, which is the smaller ones that sort of line up right below the panel antennas, and one new equipment cabinet which would be located on the rooftop equipment.

CONSTANTINE ALEXANDER: Before you go any further, you may want to -- the Board making this a case heard. I want to point out to you that the last telecom case we had was involving Verizon. I guess a month or so ago. And in that one

we required, or the petitioner actually volunteered and we acquired, a better screening and disguise of the property than what you're proposing, your client is proposing here. They actually put screening all around the antennas so that they're not visible from the street. And I like -- I think the Board liked what they did and I don't see why your client can't do the same. And so I'm wondering whether we should hear this case tonight. I can show you the photo sims that they submitted and you can take them with you. And in their case you can see what they did. And I don't know what other members of the Board think, but I think we should allow the petitioner -- I don't think I'm ready to vote on the case tonight because I think you can do better with regard to

disguising the visual impact of what you're proposing. And in fact, as you know under our Ordinance, that's one of the things we have to look into, the extent to which the visual impact of the proposed facility is minimized.

People feel strongly or do you want to --

DOUGLAS MYERS: I feel why don't we give the applicant a chance to look through the pictures and make a preliminary response about -- I assume she's never seen them before.

CONSTANTINE ALEXANDER: No, I assume not.

ATTORNEY ANNE REYNOLDS: And this is a brand new site?

CONSTANTINE ALEXANDER: Yes. For each side, the actual, they're original

proposal, which we didn't like. And then what they came back -- their modified proposal, that's the one that has the screening. So if you look at each one of those, you'll see the -- you can compare them to the one before you'll see how the screening worked. Mr. Hughes I think is the author of this motion.

TIMOTHY HUGHES: I'm not sure.

DOUGLAS MYERS: I think the idea is we don't believe we're asking for the impossible.

CONSTANTINE ALEXANDER: Right.

DOUGLAS MYERS: But we think it's good enough and realistic enough that we'd like to you go back and see whether it is possible.

TIMOTHY HUGHES: There are situations where it works like when

there's a set back penthouse that you're already hanging the antennas off. I mean obviously if this was, the building went straight up, it didn't have that recess, it didn't have an extra, you know, floor up there, it would be, it would be impossible or at least be as garish as the antennas are in the first place. But this looks like a candidate for this kind of screening and that's what we're proposing.

ATTORNEY ANNE REYNOLDS: You know I haven't, I don't know.

CONSTANTINE ALEXANDER: I realize you can't respond to us at this point.

ATTORNEY ANNE REYNOLDS: Or it had come up, I haven't seen these pictures, but this particular site had come up when we were at the Planning Board and they felt this wasn't the same type of

situation.

CONSTANTINE ALEXANDER: The Planning Board also said they had no comments on this proposal.

ATTORNEY ANNE REYNOLDS: The discussion at the hearing, yes. Basically this is what they said by the end of the hearing when we talked about it, was that this was a good proposal and that it was aesthetically not much of a change and that they were okay with it. And that, you know, this was great that this was done at the site. But they didn't feel because this wasn't a new installation. And also just these antennas are not ours. So that, that was the other issue that come up in order to go on -- Sprint's got three antennas up here. There's another -- I'm assuming there's three

sectors of 12. I don't know what the feasibility of it is from a leasing perspective. I don't know that we have the lease rights to go all the way around either. This is not our lease space. There are, you know, and then what do we do just the edges?

CONSTANTINE ALEXANDER: The ones you are going to add, you could -- it would appear at least you could put screening around.

ATTORNEY ANNE REYNOLDS: So I guess my question, then, is if I go back and putting just a small wall in front of each one so -- my thought is is that going to break it up like chunky?

CONSTANTINE ALEXANDER: I don't know.

TIMOTHY HUGHES: No, no. There's,

there's the possibility that you can communicate with that other carrier and maybe split the cost of screening the whole thing even though they're not under the gun to do it now. There are approaches you can take besides making it look chunky, like you said.

But what we wanted you to do is investigate all the possibilities. If you come back to us and say you can screen yours but you couldn't get the other carrier on board and that can't be done, we'll take that into consideration. But we want, we want you to explore all the possibilities and present it to us.

CONSTANTINE ALEXANDER: Given the fact Verizon did that and we want to know why you can't. And maybe you can't. Maybe there's good reasons not to do what

Verizon did. We need to hear from you on this. We need to hear from you or your client, your client through you. And this would be a case not heard so we don't have to come back --

ATTORNEY ANNE REYNOLDS: And you want a screening wall around the whole -- the best we can do?

CONSTANTINE ALEXANDER: Do whatever --

ATTORNEY ANNE REYNOLDS: You don't want to see anything painted? You want it to be fit basically. Because aside from putting that screen in, I don't think can you get it better than that in terms of aesthetics. So it's either we can put that wall and if we can't, I'll come back with the reasons why.

TIMOTHY HUGHES: Exactly.

CONSTANTINE ALEXANDER: And with new photo sims if you're going to propose to do that.

BRENDAN SULLIVAN: I would want to hear from this lady who has come down here tonight, that's one of the problems that.

CONSTANTINE ALEXANDER: I'm going to give you a chance to speak.

And I want to speak to you as well. I assume you're the person who wrote the letter?

RHODA FANTASIA: No, I'm not.

CONSTANTINE ALEXANDER: Oh.

RHODA FANTASIA: But I do -- for the record, Rhoda Fantasia, 4 Canal Park. I will speak for and on behalf of myself and residents, that the concern is the visual negativity of anything that goes on that roof. At the moment there are

three -- well, there are seven antenna that are nicely blended in with the existing brick. And we're concerned about the steel structure that could be going on top of the roof, any of the cabinets that are going to be placed on top of the roof, for the visual effect which would diminish, obviously, the attractiveness of that whole semicircle that wraps around from Thorndike Way to this building, which is kind of a lovely facade around the front. It's a nice curve. It's just an end building to the semicircle, and it creates a very nice visual -- well, for us and 6 and Canal Park and also for visitors who were coming in. And so anything that detracts from that is going to be, it's going to be a problem for us.

CONSTANTINE ALEXANDER: You're on

the same page we are. You want --

RHODA FANTASIA: Exactly.

CONSTANTINE ALEXANDER: So we'll see what they come back with. Now are you going to also -- I want to get this off the table. The letter we got also spends a lot of time about the health impact.

RHODA FANTASIA: Yes.

CONSTANTINE ALEXANDER: You people don't seem to understand this. So let me speak to that if I may.

By federal legislation communities cannot, the Federal Government -- Congress passed a law saying essentially electromagnetic wave emissions have to meet certain standards, which these folks do, are not health hazards, period, end of story. And communities can't turn them down on the grounds of perceived health

hazards. So that's off the table if you will.

Now, we do try to impose -- we do impose conditions that try to make -- box in this health issue and to try to maximize our ability to control them, but we're not going to deal with the issue of health issues. Not because we don't want to, it's because we can't.

RHODA FANTASIA: That was not going to be the thrust of my argument.

CONSTANTINE ALEXANDER: Okay.

RHODA FANTASIA: I know the letter writer was very concerned about emissions and the potential for a health hazard, but I don't know enough about it. I can't say one single thing.

CONSTANTINE ALEXANDER: Okay.

You might pass this on --

RHODA FANTASIA: I will definitely, and thank you for that.

CONSTANTINE ALEXANDER: So I think we need to continue this case.

How much time do you think you need to go back to your client and think about this and come back with new, presumably new photo simulations and new plans?

ATTORNEY ANNE REYNOLDS: I don't know how easy it is. It depends on how the landlord goes. So when's the next, or what's the next -- I mean, a couple weeks? It may --

CONSTANTINE ALEXANDER: Will you be ready?

ATTORNEY ANNE REYNOLDS: I'm not sure. It just depends on how quickly they can.

DOUGLAS MYERS: A couple dates

have been mentioned, April 29th.

CONSTANTINE ALEXANDER: I'm sorry?

SEAN O'GRADY: Are we a case heard now?

CONSTANTINE ALEXANDER: No, not a case heard. I don't -- we didn't get into the merits of the case. We just had conversation.

SEAN O'GRADY: Already. All right. As early as two weeks?

CONSTANTINE ALEXANDER: That may be too early.

SEAN O'GRADY: And then not until April 30th.

ATTORNEY ANNE REYNOLDS: So it's --

SEAN O'GRADY: March 26th or April 30th.

DOUGLAS MYERS: April 9th is full?

SEAN O'GRADY: Well, it will be full on the next case which has already been promised.

BRENDAN SULLIVAN: I think you need more than two weeks, Anne.

CONSTANTINE ALEXANDER: I do, too. I agree.

ATTORNEY ANNE REYNOLDS: Can I take the two weeks and continue it?

CONSTANTINE ALEXANDER: We can do that.

TIMOTHY HUGHES: We can do it because we don't need the spot. You got a spot for the next case, right?

SEAN O'GRADY: Yeah, we can do that if it's okay.

ATTORNEY ANNE REYNOLDS: I mean, likely you're right. I'd just rather be able to go back and say --

CONSTANTINE ALEXANDER: All right.

ATTORNEY ANNE REYNOLDS: It will push them to move faster if anything else. I think that will help me get it done.

CONSTANTINE ALEXANDER: You understand, Ma'am, we're going to continue for two weeks. There's a good possibility that in two weeks they'll want to continue it some more.

ATTORNEY ANNE REYNOLDS: I don't mean to be a pain. I'm trying --

CONSTANTINE ALEXANDER: No, no. We might save you a trip down here and spending the late hour of the night or hear the case much earlier. You might want to check with the Inspectional Services a couple days before and they'll let you know if the case is going forward.

RHODA FANTASIA: What's two weeks?

TIMOTHY HUGHES: March 26th.

ATTORNEY ANNE REYNOLDS: There a copy of the letter. Was there a letter submitted?

CONSTANTINE ALEXANDER: It's very long. It's about three pages. It's in the file. Mr. O'Grady can make a copy of it you.

TIMOTHY HUGHES: And do you have -- because it's two weeks, you have to change the signs on the site right away tomorrow.

CONSTANTINE ALEXANDER: You only got two weeks.

TIMOTHY HUGHES: They have to be changed tomorrow.

ATTORNEY ANNE REYNOLDS: Okay.

CONSTANTINE ALEXANDER: Yes, make sure someone goes there tomorrow.

The Chair moves that this case be continued as a case not heard until seven p.m. on March 26th, on the subject of the following conditions:

That the petitioner sign a waiver of time for decision. And we've done that before.

That the posting sign be modified, as you know, with a magic marker to reflect the new date, March 26th, and the new time, seven p.m.

And that the sign be maintained within this modified form for the 14 days required under our ordinance. That's the waiver.

So that means you're going to have to do it tomorrow.

And lastly to the extent, and presumably there will be this, the extent

you're going to submit modified photo simulations and/or plans, that they be in our files, as you know, no later than the five p.m. on the Monday before March 26th.

All those in favor of continuing the case on this basis say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

CONSTANTINE ALEXANDER: We'll see you in March maybe.

ATTORNEY ANNE REYNOLDS: Thank you.

* * * * *

(10:40 p.m.)

(Sitting Members Case #BZA-006077-2015:
Constantine Alexander, Timothy Hughes,
Brendan Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: The Chair
will call case No. 006077, 184 Harvey
Street.

Is there anyone here wishing to be
heard on this matter?

(No Response).

CONSTANTINE ALEXANDER: The Chair
notes there is no one wishing to be heard.

The Chair would report we are in

receipt of a letter from the petitioner.

(Reading) I am writing to formally request a continuance of my Zoning appeal and would ask to be scheduled in front of the Board when I have time to make the requested modifications to my application. I will be ready to present by April 9th and request the opportunity to present to the Board then.

And that's the April 9th date we have set aside.

The Chair moves that we continue this case as a case not heard until seven p.m. on April 9th on the following conditions:

That the petitioner sign a waiver of time for decision. That hasn't been done yet or has it?

SEAN O'GRADY: I think it has,

yes.

CONSTANTINE ALEXANDER: You're right. That instruction is not necessary.

That the posting sign, and make sure the petitioner understands this, Sean, must be modified, can be done to reflect the new date April 9th, the new time, seven p.m., and that it be maintained for the 14 days required under our Ordinance.

And lastly to the extent that new plans will be submitted and they will have to be submitted, they must be in our files no later than five p.m. on the Monday before April 9th.

All those in favor please say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Case continued.

(Alexander, Hughes, Sullivan,

Myers, Monteverde.)

* * * * *

(10:40 p.m.)

(Sitting Members Case #10464: Constantine
Alexander, Timothy Hughes, Brendan
Sullivan, Douglas Myers, James
Monteverde.)

CONSTANTINE ALEXANDER: I'm going
to call case No. 10464. It involves 28
Andrew Street. Petitioner is being
Charles W. Henebry H-e-n-e-b-r-y and
Lillian Porten, P-o-r-t-e-n.

These folks were granted a Variance by this Board about a year ago and they are requesting an extension of the time. They're not going to be able to act on their Variance within the one year period required, and they're asking for the statutory six-month permitted extension. And their letter is: (Reading) We are writing to request a six-month extension of the Zoning Variance granted last spring to construct dormers on on the roof of 28 Andrew Street, as well as a one level open deck on the second floor in the rear.

The decision was filed with the office of the City Clerk on March 26, 2014.

We completed the back deck in October 2014. However, due to financial concerns, we put off the main construction

for a year. We have firm plans to break ground just a few months from now in June 2015.

The Chair moves that we grant the requested extension.

All those in favor say "Aye."

(Aye.)

CONSTANTINE ALEXANDER: Five in favor. Extension granted.

(Alexander, Hughes, Sullivan, Myers, Monteverde.)

* * * * *

ERRATA SHEET AND SIGNATURE INSTRUCTIONS

The original transcript and Errata Sheet has been delivered to Community Development Department electronically.

INSTRUCTIONS

After reading this volume of the Planning Board transcript, note any change or correction and the reason therefor on this sheet. Sign and date this Errata Sheet.

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I have read the foregoing transcript of the Planning Board, and

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C E R T I F I C A T E

**COMMONWEALTH OF MASSACHUSETTS
BRISTOL, SS.**

I, Catherine Lawson Zelinski, a Certified Shorthand Reporter, the undersigned Notary Public, certify:

That the hearing herein before set forth is a true and accurate record of the proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand this 24th day of March, 2015

Catherine L. Zelinski
Notary Public
Certified Shorthand Reporter
License No. 147703

My Commission Expires:

April 23, 2015

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